

House Bill 652

By: Representatives O`Neal of the 146th, Dickey of the 140th, Harden of the 148th, Epps of the 144th, and Clark of the 147th

A BILL TO BE ENTITLED
AN ACT

1 To create the Perry Public Facilities Authority; to provide for the appointment of members
2 of such authority; to confer powers upon the authority; to authorize the issuance of revenue
3 bonds by the authority payable from the revenues, tolls, fees, charges, and earnings of the
4 authority, contract payments to the authority, and from other moneys pledged therefor and
5 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 "Perry Public Facilities Authority Act."

17 **SECTION 2.**

18 Perry Public Facilities Authority.

19 (a) There is created a public body corporate and politic to be known as the "Perry Public
20 Facilities Authority," which shall be deemed to be a political subdivision of the state and a
21 public corporation, and by that name, style, and title said body may contract and be
22 contracted with, sue and be sued, implead and be impleaded, and complain and defend in all
23 courts of law and equity. The authority shall have perpetual existence.

24 (b) The authority shall consist of seven members. The mayor and councilmembers of the
 25 City of Perry shall each appoint one member whose term on the authority shall correspond
 26 with the term of the mayor or commissioner on the board of commissioners who appointed
 27 such member.

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

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

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

40 **SECTION 3.**

41 **Definitions.**

42 As used in this Act, the term:

43 (1) "Authority" means the Perry Public Facilities Authority created by this Act.

44 (2) "City council" means the city council of the City of Perry, Georgia, or similar body
 45 or person managing the affairs of the city.

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

55 (4) "City" means Perry, Georgia, and its successors.

56 (5) "Project" means all buildings, facilities, and equipment necessary or beneficial for
 57 the efficient operation of the city or any department, agency, division, or commission
 58 thereof and any undertaking of the city permitted pursuant to the Revenue Bond Law.

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

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

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

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

71 **SECTION 4.**

72 Powers.

73 The Authority shall have the power:

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

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

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

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

90 (5) To execute contracts, leases, installment sale agreements, and other agreements and
91 instruments necessary or convenient in connection with the acquisition, construction,
92 addition, extension, improvement, equipping, operation, or maintenance of a project; and
93 any and all persons, firms and corporations, the city, the Perry school district, and any

94 other political subdivision or municipality of the city are hereby authorized to enter into
95 contracts, leases, installment sale agreements, and other agreements or instruments with
96 the authority upon such terms and for such purposes as they deem advisable and as they
97 are authorized by law;

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

100 (7) To pay the costs of the project with the proceeds of revenue bonds or other
101 obligations issued by the authority or from any grant or contribution from the United
102 States of America or any agency or instrumentality thereof or from the state or any
103 agency or instrumentality or other political subdivision thereof or from any other source
104 whatsoever;

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

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

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

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

120 (12) To sell or assign its rights under its contracts, lease agreements, or installment sale
121 agreements or its right to receive payments thereunder, either directly or through trust or
122 custodial arrangements whereby interests are created in such contracts, lease agreements,
123 or installment sale agreements or the payment to be received thereunder through the
124 issuance of trust certificates, certificates of participation, custodial receipts, or other
125 similar instruments; and

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

128 **SECTION 5.**

129 Revenue bonds.

130 The authority, or any entity or body which has or which may in the future succeed to the
131 powers, duties, and liabilities vested in the authority created hereby, shall have power and
132 is hereby authorized to provide by resolution for the issuance of revenue bonds by the
133 authority for the purpose of paying all or any part of the costs of the project and for the
134 purpose of refunding revenue bonds or other obligations previously issued. The principal of
135 and interest on such revenue bonds shall be payable solely from the special fund hereby
136 provided for such payment. The revenue bonds of each issue shall be dated, shall bear
137 interest at such rate or rates per annum, payable at such time or times, shall mature at such
138 time or times not exceeding 40 years from their date or dates, shall be payable in such
139 medium of payment as to both principal and interest as may be determined by the authority,
140 and may be redeemable before maturity, at the option of the authority, at such price or prices
141 and under such terms and conditions as may be fixed by the authority in the resolution for
142 the issuance of such revenue bonds.

143 **SECTION 6.**

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

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

149 **SECTION 7.**

150 Revenue bonds; signatures; seal.

151 All revenue bonds shall bear the manual or facsimile signature of the chairperson or
152 vice-chairperson of the authority and the attesting manual or facsimile signature of the
153 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of
154 the authority shall be impressed or imprinted thereon. Any revenue bonds may bear the
155 manual or facsimile signature of such persons as at the actual time of the execution of such
156 revenue bonds shall be duly authorized or hold the proper office, although at the date of
157 issuance of such revenue bonds such person may not have been so authorized or shall not
158 have held such office. In case any officer whose signature shall appear on any revenue bond
159 shall cease to be such officer before the delivery of such revenue bond, such signature shall

160 nevertheless be valid and sufficient for all purposes, the same as if that person had remained
161 in office until such delivery.

162 **SECTION 8.**

163 Revenue bonds; negotiability; exemption from taxation.

164 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
165 of negotiable instruments under the laws of the state. All revenue bonds, their transfer and
166 the income therefrom shall be exempt from all taxation within the state. The authority shall
167 be exempt from all taxation within the state in the same manner and to the same extent that
168 the city is exempt from such taxes.

169 **SECTION 9.**

170 Revenue bonds; sale; price; proceeds.

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

175 **SECTION 10.**

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

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

180 **SECTION 11.**

181 Revenue bonds; replacement of lost or mutilated bonds.

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

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SECTION 12.

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Revenue bonds; conditions precedent to issuance.

186 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
187 resolution, the authority shall determine that the project financed or refinanced with the
188 proceeds of the revenue bonds is self liquidating. Any resolution providing for the issuance
189 of revenue bonds under the provisions of this Act shall become effective immediately upon
190 its passage. Any such resolution may be passed by a majority of the authority's members at
191 any regular or special meeting that is duly advertised by the authority pursuant to Chapter
192 14 of Title 50 of the Official Code of Georgia Annotated. However, no such resolution shall
193 be adopted unless a public hearing has been held by the authority. At least 15 days prior to
194 such public hearing a notice of such public hearing shall be published in a newspaper of
195 general circulation in the city.

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SECTION 13.

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Credit not pledged.

198 Revenue bonds shall not be deemed to constitute a debt of the city nor a pledge of the faith
199 and credit of the city, but such revenue bonds shall be payable solely from the fund
200 hereinafter provided for. The issuance of such revenue bonds shall not directly, indirectly
201 or contingently obligate the city to levy or to pledge any form of taxation whatsoever for
202 payment of such revenue bonds or to make any appropriation for their payment, and all such
203 revenue bonds shall contain recitals on their face covering substantially the foregoing
204 provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect
205 the ability of the authority and any political subdivision or municipality to enter into an
206 intergovernmental contract pursuant to which the political subdivision or municipality agrees
207 to pay amounts sufficient to pay operating charges and other costs of the authority or any
208 project including, without limitation, the principal of and interest on revenue bonds in
209 consideration for services or facilities of the authority.

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SECTION 14.

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Trust indenture as security.

212 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
213 indenture by and between the authority and a corporate trustee, which may be any trust
214 company or bank having the powers of a trust company within or outside the state. Either
215 the resolution providing for the issuance of the revenue bonds or such trust indenture may

216 contain such provisions for protecting and enforcing the rights and remedies of the
217 bondholders as may be reasonable and proper and not in violation of law, including
218 covenants setting forth the duties of the authority in relation to the acquisition and
219 construction of the project, the maintenance, operation, repair and insuring of the project, and
220 the custody, safeguarding, and application of all monies.

221 **SECTION 15.**

222 To whom proceeds of bonds shall be paid.

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

228 **SECTION 16.**

229 Sinking fund.

230 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
231 charges, and earnings derived from any particular project or projects, regardless of whether
232 or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular
233 project for which revenue bonds have been issued, unless otherwise pledged and allocated,
234 may be pledged and allocated by the authority to the payment of the principal and interest
235 on revenue bonds of the authority as the resolution authorizing the issuance of the revenue
236 bonds or in the trust indenture may provide, and such funds so pledged from whatever source
237 received shall be set aside at regular intervals as may be provided in the resolution or trust
238 indenture, into a sinking fund, which said sinking fund shall be pledged to and charged with
239 the payment of the interest upon such revenue bonds as such interest shall fall due; the
240 principal or purchase price of such revenue bonds as the same shall fall due; any premium
241 upon such revenue bonds as the same shall fall due; the purchase of such revenue bonds in
242 the open market; and the necessary charges of the paying agent for paying principal and
243 interest. The use and disposition of such sinking fund shall be subject to such regulations as
244 may be provided in the resolution authorizing the issuance of the revenue bonds or in the
245 trust indenture, but, except as may otherwise be provided in such resolution or trust
246 indenture, such sinking fund shall be maintained as a trust account for the benefit of all
247 revenue bonds without distinction or priority of one over another.

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SECTION 17.

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Remedies of bondholders.

250 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the
251 extent the rights herein given may be restricted by resolution passed before the issuance of
252 the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,
253 mandamus, or other proceedings, protect and enforce any and all rights under the laws of the
254 state, including specifically but without limitation, the Revenue Bond Law, or granted
255 hereunder or under such resolution or trust indenture, and may enforce and compel
256 performance of all duties required by this Act or by such resolution or trust indenture to be
257 performed by the authority or any officer thereof, including the fixing, charging, and
258 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and
259 services furnished.

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SECTION 18.

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Validation.

262 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
263 the procedure of the Revenue Bond Law. The petition for validation shall also make party
264 defendant to such action the state, and any institution, department, or other agency thereof,
265 and any city, municipality, school district, or other political subdivision or authority of the
266 state which has contracted with the authority for services or facilities relating to the project
267 for which revenue bonds are to be issued and sought to be validated, and such defendant shall
268 be required to show cause, if any exists, why such contract or contracts shall not be
269 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.
270 The revenue bonds when validated and the judgment of validation shall be final and
271 conclusive with respect to such revenue bonds and the security for the payment thereof and
272 interest thereon and against the authority and all other defendants.

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SECTION 19.

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Venue and jurisdiction.

275 Any action to protect or enforce any rights under the provisions of this Act or any suit or
276 action against such authority shall be brought in the superior court of Houston County, and
277 any action pertaining to validation of any revenue bonds issued under the provisions of this
278 Act shall likewise be brought in said court which shall have exclusive, original jurisdiction
279 of such actions.

280 **SECTION 20.**

281 Interest of bondholders protected.

282 While any of the revenue bonds issued by the authority remain outstanding, the powers,
283 duties, or existence of said authority or its officers, employees, or agents, shall not be
284 diminished or impaired in any manner that will affect adversely the interests and rights of the
285 holders of such revenue bonds, and no other entity, department, agency, or authority will be
286 created which will compete with the authority to such an extent as to affect adversely the
287 interest and rights of the holders of such revenue bonds, nor will the state itself so compete
288 with the authority. The provisions of this Act shall be for the benefit of the authority and the
289 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
290 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

291 **SECTION 21.**

292 Monies received considered trust funds.

293 All monies received pursuant to the authority of this Act, whether as proceeds from the sale
294 of revenue bonds, as grants or other contributions, or as revenue, income, fees, and earnings,
295 shall be deemed to be trust funds to be held and applied solely as provided in this Act.

296 **SECTION 22.**

297 Purpose of the authority.

298 Without limiting the generality of any provision of this Act, the public purpose of the
299 authority is declared to be that of providing public buildings, facilities, equipment, and other
300 public undertakings for the citizens in the city.

301 **SECTION 23.**

302 Rates, charges, and revenues; use.

303 The authority is hereby authorized to prescribe and fix rates and to revise same from time to
304 time and to collect revenues, tolls, fees, and charges for the services, facilities, and
305 commodities furnished, and in anticipation of the collection of the revenues, to issue revenue
306 bonds or other types of obligations as herein provided to finance, in whole or in part, the
307 costs of the project, and to pledge to the punctual payment of said revenue bonds or other
308 obligations, all or any part of the revenues.

309 **SECTION 24.**

310 Rules, regulations, service policies, and
311 procedures for operation of projects.

312 It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations,
313 service policies, and procedures for the operation of any project or projects constructed or
314 acquired under the provisions of this Act. The authority may adopt bylaws.

315 **SECTION 25.**

316 Tort immunity.

317 To the extent permitted by law, the authority shall have the same immunity and exemption
318 from liability for torts and negligence as the city. The officers, agents, and employees of the
319 authority when in the performance of the work of the authority shall have the same immunity
320 and exemption from liability for torts and negligence as the officers, agents, and employees
321 of the city when in the performance of their public duties or work of the city.

322 **SECTION 26.**

323 Tax-exempt status of authority.

324 The properties of the authority, both real and personal, are declared to be public properties
325 used for the benefit and welfare of the people of the state and not for purposes of private or
326 corporate benefit and income, and such properties and the authority shall be exempt from all
327 taxes and special assessments of any municipality, city, or the state and any political
328 subdivision thereof.

329 **SECTION 27.**

330 Effect on other governments.

331 This Act shall not and does not in any way take from the city or any political subdivision or
332 municipality the authority to own, operate, and maintain public facilities or to issue revenue
333 bonds as provided by the Revenue Bond Law.

334 **SECTION 28.**

335 Earnings and dissolution.

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

338 **SECTION 29.**

339 Liberal construction of Act.

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

342 **SECTION 30.**

343 Severability; effect of partial invalidity of Act.

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

347 **SECTION 31.**

348 Effective date.

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

351 **SECTION 32.**

352 Repealer.

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