

House Bill 562

By: Representatives Ridley of the 6th, Jasperse of the 11th, and Meadows of the 5th

A BILL TO BE ENTITLED
AN ACT

1 To create the City of Eton Public Facilities Authority; to provide for a short title; to provide
2 for membership of the authority; to provide for definitions; to confer powers upon the
3 authority; to authorize the issuance of revenue bonds of the authority payable from the
4 revenues, tolls, fees, fines, charges, and earnings of the authority, contract payments to the
5 authority, and from other moneys pledged therefor and to authorize the collection and
6 pledging of the revenues, tolls, fees, charges, earnings, and contract payments of the
7 authority for the payment of such revenue bonds; to authorize the execution of resolutions
8 and trust indentures to secure the payment of the revenue bonds of the authority and to define
9 the rights of the holders of such obligations; to provide for exemption from taxation; to fix
10 and provide the venue and jurisdiction of actions relating to the authority; to provide for the
11 validation of bonds; to provide for tort immunity; to provide for related matters; to repeal
12 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 "City of Eton Public Facilities Authority
17 Act."

18 SECTION 2.
19 City of Eton Public Facilities Authority.

20 (a) There is hereby created a public body corporate and politic to be known as the "City of
21 Eton Public Facilities Authority," which shall be deemed to be a political subdivision of the
22 state and a public corporation, and by that name, style, and title, said body may contract and

23 be contracted with, sue and be sued, implead and be impleaded, and complain and defend in
24 all courts of law and equity. The authority shall have perpetual existence.

25 (b)(1) The authority shall be composed of three members, who shall be residents of the
26 City of Eton appointed by the affirmative vote of a majority of the governing authority
27 of the City of Eton. No member shall be an elected official or employee of the City of
28 Eton.

29 (2) The terms of office of the members shall be as follows:

30 (A) Member 1 shall serve an initial term of office until December 31, 2019, or until his
31 or her successor is duly appointed and qualified. Thereafter, all successors to such
32 member shall be appointed to serve four-year terms of office and until his or her
33 successor is duly appointed and qualified; and

34 (B) Members 2 and 3 shall serve initial terms of office until December 31, 2021, or
35 until his or her respective successor is duly appointed and qualified. Thereafter, all
36 successors to such members shall be appointed to serve four-year terms of office and
37 until his or her respective successor is appointed and qualified.

38 (3) A member of the authority may be removed at any time upon the affirmative vote of
39 a majority of the members of the governing authority of the City of Eton, upon a
40 determination that such member has, while in office:

41 (A) Been convicted of a felony, a misdemeanor of a high and aggravated nature, or a
42 crime involving moral turpitude;

43 (B) Moved such member's residence from the city during such member's term of
44 office;

45 (C) Committed misfeasance or malfeasance in office; or

46 (D) Failed to attend three or more successive regular meetings of the board without a
47 reasonable excuse.

48 (c) The mayor and council of the City of Eton shall not provide for additional compensation
49 for the services of the members of the authority; provided, however, that such members shall
50 be reimbursed for their actual expenses necessarily incurred in the performance of their
51 duties.

52 (d) The members of the authority shall elect one of their number as chairperson and another
53 as vice chairperson. The members of the authority shall also elect a secretary, who need not
54 be a member of the authority, and may also elect a treasurer, who need not be a member of
55 the authority. The secretary may also serve as treasurer. If the secretary and treasurer are
56 not members of the authority, such officers shall have no voting rights. Each of such officers
57 shall serve for a period of one year and until their successors are duly elected and qualified.

58 (e) Two members of the authority shall constitute a quorum. No vacancy on the authority
59 shall impair the right of the quorum to exercise all of the rights and perform all of the duties

60 of the authority. Any vacancy shall be filled by the affirmative vote of a majority of the
61 members of the governing authority of the City of Eton.

62 **SECTION 3.**

63 Definitions.

64 As used in this Act, the term:

65 (1) "Authority" means the City of Eton Public Facilities Authority created by this Act.

66 (2) "Costs of the project" means and embraces the cost of construction; the cost of all
67 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
68 equipment; financing charges; interest prior to and during construction and for six months
69 after completion of construction; the cost of engineering, architectural, fiscal agents'
70 expenses, legal expenses, plans and specifications, and other expenses necessary or
71 incidental to determining the feasibility or practicability of the project; administrative
72 expenses and such other expenses as may be necessary or incidental to the financing
73 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
74 add to, extend, improve, equip, operate, and maintain the project.

75 (3) "Project" means:

76 (A) All buildings, facilities, and equipment necessary or convenient for the efficient
77 operation of the City of Eaton, or any department, agency, division, or commission
78 thereof; and

79 (B) Any "undertaking" as defined in and permitted by the revenue bond law.

80 (4) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia
81 (codified at O.C.G.A. Section 36-82-62, et seq., as amended), or any other similar law
82 hereinafter enacted.

83 (5) "Revenue bonds" means revenue bonds authorized to be issued pursuant to the
84 Revenue Bond Law.

85 (6) "Self-liquidating" means any project which the revenues and earnings to be derived
86 by the authority therefrom, including but not limited to any contractual payments with
87 governmental or private entities, and all properties used, leased, and sold in connection
88 therewith, together with any grants, will be sufficient to pay the costs of operating,
89 maintaining, and repairing the project and to pay the principal and interest on the revenue
90 bonds or other obligations which may be issued for the purpose of paying the costs of the
91 project.

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

SECTION 4.

Powers.

95 The authority shall have the power to:

96 (1) Have a seal and alter the same at its pleasure;

97 (2) Acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,
98 maintain, lease, and dispose of real and personal property of every kind and character for
99 its corporate purposes;

100 (3) Acquire in its own name by purchase, on such terms and conditions and in such
101 manner as it may deem proper, or by condemnation in accordance with the provisions of
102 any and all existing laws applicable to the condemnation of property for public use, real
103 property or rights or easements therein, or franchises necessary or convenient for its
104 corporate purposes, and to use the same so long as its corporate existence shall continue,
105 and to lease or make contracts with respect to the use of or dispose of the same in any
106 manner it deems to the best advantage of the authority, and no property shall be acquired
107 under the provisions of this Act upon which any lien or encumbrance exists, unless at the
108 time such property is so acquired a sufficient sum of money is to be deposited in trust to
109 pay and redeem the fair value of such lien or encumbrance;

110 (4) Appoint, select, and employ officers, agents, and employees, including engineering,
111 architectural, and construction experts, fiscal agents, and attorneys, and fix their
112 respective compensations;

113 (5) Execute contracts, leases, installment sale agreements, and other agreements and
114 instruments necessary or convenient in connection with the acquisition, construction,
115 addition, extension, improvement, equipping, operation, or maintenance of a project; and
116 any and all persons, firms and corporations, and the City of Eton, Georgia, are hereby
117 authorized to enter into contracts, leases, installment sale agreements, and other
118 agreements or instruments with the authority upon such terms and for such purposes as
119 they deem advisable and as they are authorized by law;

120 (6) Acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease, and
121 dispose of projects;

122 (7) Pay the costs of the project with the proceeds of revenue bonds or other obligations
123 issued by the authority or from any grant or contribution from the United States of
124 America or any agency or instrumentality thereof or from the state or any agency or
125 instrumentality or other political subdivision thereof or from any other source
126 whatsoever;

127 (8) Accept loans or grants of money or materials or property of any kind from the United
128 States of America or any agency or instrumentality thereof, upon such terms and

129 conditions as the United States of America or such agency or instrumentality may
130 require;

131 (9) Accept loans or grants of money or materials or property of any kind from the state
132 or any agency or instrumentality or political subdivision thereof, upon such terms and
133 conditions as the state or such agency or instrumentality or political subdivision may
134 require;

135 (10) Borrow money for any of its corporate purposes and to issue revenue bonds and to
136 provide for the payment of the same and for the rights of the holders thereof;

137 (11) Exercise any power usually possessed by private corporations performing similar
138 functions, including the power to incur short-term debt and to approve, execute, and
139 deliver appropriate evidence of any such indebtedness; and

140 (12) Do all things necessary or convenient to carry out the powers expressly given in this
141 Act.

142 **SECTION 5.**

143 Revenue bonds.

144 The authority, or any authority or body which has or which may in the future succeed to the
145 powers, duties, and liabilities vested in the authority created hereby, shall have the power and
146 is hereby authorized to provide by resolution for the issuance of revenue bonds of the
147 authority for the purpose of paying all or any part of the costs of the project and for the
148 purpose of refunding revenue bonds or other obligations previously issued. The principal of
149 and interest on such revenue bonds shall be payable solely from the special fund hereby
150 provided for such payment. The revenue bonds of each issue shall be dated, shall bear
151 interest at such rate or rates per annum, shall be payable at such time or times, shall mature
152 at such time or times not exceeding 40 years from their date or dates, shall be payable in such
153 medium of payment as to both principal and interest as may be determined by the authority,
154 and may be redeemable before maturity, at the option of the authority, at such price or prices
155 and under such terms and conditions as may be fixed by the authority in the resolution for
156 the issuance of such revenue bonds.

157 **SECTION 6.**

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

159 The authority shall determine the form of the revenue bonds and shall fix the denomination
160 or denominations of the revenue bonds. The revenue bonds may be issued in coupon or
161 registered form, or both, as the authority may determine, and provision may be made for

162 registration and exchangeability privileges. The authority shall fix the place or places of
163 payment of principal and interest thereon.

164 **SECTION 7.**

165 Revenue bonds; signatures; seal.

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

180 **SECTION 8.**

181 Revenue bonds; negotiability; exemption from taxation.

182 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
183 of negotiable instruments under the laws of the state. All revenue bonds, their transfer, and
184 the income therefrom shall be subject to such tax exemptions as may be provided by general
185 law.

186 **SECTION 9.**

187 Revenue bonds; sale; price; proceeds.

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

192 **SECTION 10.**

193 Interim receipts and certificates or temporary revenue bonds.

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

197 **SECTION 11.**

198 Replacement of lost or mutilated revenue bonds.

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

201 **SECTION 12.**

202 Conditions precedent to issuance of revenue bonds.

203 The authority shall adopt a resolution authorizing the issuance of revenue bonds. In the
204 resolution, the authority shall determine that the project financed with the proceeds of the
205 revenue bonds is self-liquidating. Revenue bonds may be issued without any other
206 proceedings or the happening of any other conditions or things other than those proceedings,
207 conditions, and things which are specified or required by this Act. Any resolution providing
208 for the issuance of revenue bonds under the provisions of this Act shall become effective
209 immediately upon its passage and need not be published or posted, and any such resolution
210 may be passed at any regular or special or adjourned meeting of the authority by a majority
211 of its members.

212 **SECTION 13.**

213 Credit not pledged.

214 Revenue bonds shall not be deemed to constitute a debt of the City of Eton, Georgia, nor a
215 pledge of the faith and credit of the city, but such revenue bonds shall be payable solely from
216 the fund provided for in this Act. The issuance of such revenue bonds shall not directly,
217 indirectly, or contingently obligate the city to levy or to pledge any form of taxation
218 whatsoever for payment of such revenue bonds or to make any appropriation for their
219 payment, and all such revenue bonds shall contain recitals on their face covering
220 substantially the foregoing provisions of this section. Notwithstanding the foregoing
221 provisions, this Act shall not affect the ability of the authority and any political subdivision

222 or municipality to enter into an intergovernmental contract pursuant to which the political
223 subdivision or municipality agrees to pay amounts sufficient to pay operating charges and
224 other costs of the authority or any project including, without limitation, the principal of and
225 interest on revenue bonds in consideration for services or facilities of the authority.

226 **SECTION 14.**

227 Trust indenture as security.

228 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
229 indenture by and between the authority and a corporate trustee, which may be any trust
230 company or bank having the powers of a trust company inside or outside the state. Either the
231 resolution providing for the issuance of the revenue bonds or such trust indenture may
232 contain such provisions for protecting and enforcing the rights and remedies of the
233 bondholders as may be reasonable and proper and not in violation of law, including
234 covenants setting forth the duties of the authority in relation to the acquisition and
235 construction of the project, the maintenance, operation, repair, and insuring of the project,
236 and the custody, safeguarding, and application of all moneys.

237 **SECTION 15.**

238 To whom proceeds of bonds shall be paid.

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

244 **SECTION 16.**

245 Sinking fund.

246 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
247 fines, charges, and earnings derived from any particular project or projects, regardless of
248 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
249 particular project for which revenue bonds have been issued, unless otherwise pledged and
250 allocated, may be pledged and allocated by the authority to the payment of the principal and
251 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
252 revenue bonds or the trust indenture may provide, and such funds so pledged from whatever

253 source received shall be set aside at regular intervals as may be provided in the resolution or
254 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
255 the payment of:

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

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

266 **SECTION 17.**

267 Remedies of bondholders.

268 Any holder of revenue bonds or any of the coupons appertaining thereto, and the trustee
269 under the trust indenture, if any, except to the extent the rights herein given may be restricted
270 by resolution passed before the issuance of the revenue bonds or by the trust indenture, may,
271 either at law or in equity, by suit, action, mandamus, or other proceedings, protect and
272 enforce any and all rights under the laws of the state, including specifically but without
273 limitation the Revenue Bond Law, or granted hereunder or under such resolution or trust
274 indenture, and may enforce and compel performance of all duties required by this Act or by
275 such resolution or trust indenture to be performed by the authority or any officer thereof,
276 including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges
277 for the use of the facilities and services furnished.

278 **SECTION 18.**

279 Validation.

280 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
281 the procedure of the Revenue Bond Law. The petition for validation shall also make party
282 defendant to such action the state; any institution, department, or other agency thereof; and
283 any county, municipality, school district, or other political subdivision or authority of the
284 state which has contracted with the authority for services or facilities relating to the project
285 for which revenue bonds are to be issued and sought to be validated, and such defendant shall

286 be required to show cause, if any exists, why such contract or contracts shall not be
287 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.
288 The revenue bonds, when validated, and the judgment of validation shall be final and
289 conclusive with respect to such revenue bonds and the security for the payment thereof and
290 interest thereon and against the authority and all other defendants.

291 **SECTION 19.**

292 Venue and jurisdiction.

293 Any action to protect or enforce any rights under the provisions of this Act or any suit or
294 action against such authority shall be brought in the Superior Court of Murray County,
295 Georgia, and any action pertaining to validation of any revenue bonds issued under the
296 provisions of this Act shall likewise be brought in said court which shall have exclusive,
297 original jurisdiction of such actions.

298 **SECTION 20.**

299 Interest of bondholders protected.

300 While any of the revenue bonds issued by the authority remain outstanding, the powers,
301 duties, or existence of the authority or its officers, employees, or agents shall not be
302 diminished or impaired in any manner that will affect adversely the interests and rights of the
303 holders of such revenue bonds, and no other entity, department, agency, or authority shall be
304 created which would compete with the authority to such an extent as to affect adversely the
305 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete
306 with the authority. The provisions of this Act shall be for the benefit of the authority and the
307 holders of any such revenue bonds and, upon the issuance of such revenue bonds under the
308 provisions hereof, shall constitute a contract with the holders of such revenue bonds.

309 **SECTION 21.**

310 Moneys received considered trust funds.

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

314 **SECTION 22.**

315 Purpose of the authority.

316 Without limiting the generality of any provision of this Act, the general purpose of the
317 authority is declared to be that of providing buildings, facilities, equipment, and services for
318 the citizens of the City of Eton, Georgia.

319 **SECTION 23.**

320 Rates, charges, and revenues; use.

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

327 **SECTION 24.**

328 Rules, regulations, service policies, and
329 procedures for operation of projects.

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

333 **SECTION 25.**

334 Tort immunity.

335 To the extent permitted by law, the authority shall have the same immunity and exemption
336 from liability for torts and negligence as the City of Eton, Georgia; and the officers, agents,
337 and employees of the authority when in the performance of the work of the authority shall
338 have the same immunity and exemption from liability for torts and negligence as the officers,
339 agents, and employees of the City of Eton, Georgia, when in the performance of their public
340 duties or the work of the city.

341 **SECTION 26.**

342 Tax-exempt status of the authority.

343 The obligations, properties, activities, and income of the authority shall be subject to such
344 tax exemptions as may be provided by general law.

345 **SECTION 27.**

346 Effect on other governments.

347 This Act shall not and does not in any way take from the City of Eton, Georgia, or any
348 political subdivision or municipality the authority to own, operate, and maintain public
349 facilities or to issue revenue bonds as provided by the Revenue Bond Law.

350 **SECTION 28.**

351 Liberal construction of Act.

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

354 **SECTION 29.**

355 Repealer.

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