

House Bill 559 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 130th and Caldwell of the 131st

A BILL TO BE ENTITLED
AN ACT

1 To create the Lamar County Public Facilities Authority and to provide for the appointment
2 of members of the authority; to confer powers upon the authority; to authorize the issuance
3 of revenue bonds of the authority payable from the revenues, tolls, fees, charges, and
4 earnings of the authority, contract payments to the authority, and from other money pledged
5 therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges,
6 earnings, and contract payments of the authority for the payment of such revenue bonds; to
7 authorize the execution of resolutions and trust indentures to secure the payment of the
8 revenue bonds of the authority; to fix and provide the venue and jurisdiction of actions
9 relating to any provisions of this Act; to provide for related matters; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Short title.

14 This Act shall be known and may be cited as the "Lamar County Public Facilities Authority
15 Act."

16 SECTION 2.

17 Lamar County Public Facilities Authority.

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

23 (b) The authority shall consist of five members who shall be appointed by the Board of
 24 Commissioners of Lamar County. With respect to the initial appointment by the Board of
 25 Commissioners of Lamar County, two members shall be appointed for a term of three years;
 26 two members shall be appointed for a term of two years; and one member shall be appointed
 27 for a term of one year. Thereafter, all appointments shall be made for terms of three years
 28 and until successors are appointed and qualified. Immediately after such appointments, the
 29 members of the authority shall enter upon their duties. To be eligible for appointment as a
 30 member of the authority, a person shall be at least 21 years of age and a resident of Lamar
 31 County, Georgia, for at least two years prior to the date of his or her appointment and shall
 32 not have been convicted of a felony. Any member of the authority may be selected and
 33 appointed to succeed himself or herself. A member may be removed from office by the
 34 board of commissioners for failure to perform the appropriate duties of membership.

35 (c) The Board of Commissioners of Lamar County may provide by resolution for
 36 compensation for the services of the members of the authority in such amounts as it may
 37 deem appropriate; provided, however, that such members shall be reimbursed for their actual
 38 expenses necessarily incurred in the performance of their duties.

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

45 (e) Three members of the authority shall constitute a quorum. No vacancy on the authority
 46 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
 47 of the authority.

48 **SECTION 3.**

49 **Definitions.**

50 As used in this Act, the term:

51 (1) "Authority" means the Lamar County Public Facilities Authority created by this Act.

52 (2) "Costs of the project" means and embraces the cost of construction; the cost of all
 53 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
 54 equipment; financing charges; interest prior to and during construction and for six months
 55 after completion of construction; the cost of engineering, architectural, fiscal agents'
 56 expenses, legal expenses, plans and specifications, and other expenses necessary or
 57 incidental to determining the feasibility or practicability of the project; administrative

58 expenses and such other expenses as may be necessary or incidental to the financing
 59 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
 60 add to, extend, improve, equip, operate, and maintain the project.

61 (3) "Project" means:

62 (A) All buildings, facilities, and equipment necessary or convenient for the efficient
 63 operation of:

64 (i) Lamar County, Georgia, or any department, agency, division, or commission
 65 thereof;

66 (ii) The Lamar County School District; or

67 (iii) Any other political subdivision of the State of Georgia located within Lamar
 68 County, Georgia; and

69 (B) Any "undertaking" permitted by the revenue bond law.

70 (4) "Revenue bond law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the
 71 "Revenue Bond Law."

72 (5) "Revenue bonds" means revenue bonds authorized to be issued pursuant to the revenue
 73 bond law.

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

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

82 **SECTION 4.**

83 Powers.

84 The authority shall have the power:

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

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

89 (3) To acquire in its own name by purchase on such terms and conditions and in such
 90 manner as it may deem proper or by condemnation in accordance with the provisions of
 91 any and all existing laws applicable to the condemnation of property for public use, real
 92 property, or rights or easements therein, or franchises necessary or convenient for its

93 corporate purposes; to use the same so long as its corporate existence shall continue; and
94 to lease or make contracts with respect to the use of or disposal of the same in any manner
95 it deems to the best advantage of the authority. The authority shall be under no obligation
96 to accept and pay for any property condemned under this Act except from the funds
97 provided under the authority of this Act. In any proceedings to condemn, such orders may
98 be made by the court having jurisdiction of the suit, action, or proceedings as may be just
99 to the authority and to the owners of the property to be condemned. No property shall be
100 acquired under the provisions of this Act upon which any lien or encumbrance exists,
101 unless, at the time such property is so acquired, a sufficient sum of money is to be
102 deposited in trust to pay and redeem the fair value of such lien or encumbrance;

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

106 (5) To execute contracts, leases, installment sale agreements, and other agreements and
107 instruments necessary or convenient in connection with the acquisition, construction,
108 addition, extension, improvement, equipping, operation, or maintenance of a project; and
109 any and all persons, firms, corporations, Lamar County, the Lamar County School District,
110 and any other political subdivision or municipality of the State of Georgia located in Lamar
111 County, are hereby authorized to enter into contracts, leases, installment sale agreements,
112 and other agreements or instruments with the authority upon such terms and for such
113 purposes as they deem advisable and as they are authorized by law;

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

116 (7) To pay the costs of the project with the proceeds of revenue bonds or other obligations
117 issued by the authority or from any grant or contribution from the United States or any
118 agency or instrumentality thereof or from this state or any agency or instrumentality or
119 other political subdivision thereof or from any other source whatsoever;

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

123 (9) To accept loans or grants of money or materials or property of any kind from this state
124 or any agency or instrumentality or political subdivision thereof, upon such terms and
125 conditions as this state or such agency or instrumentality or political subdivision may
126 require;

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

- 129 (11) To exercise any power usually possessed by private corporations performing similar
130 functions, including the power to incur short-term debt and to approve, execute, and deliver
131 appropriate evidence of any such indebtedness; and
132 (12) To do all things necessary or convenient to carry out the powers expressly given in
133 this Act.

134 **SECTION 5.**

135 Revenue bonds.

136 The authority, or any authority or body which has or which may in the future succeed to the
137 powers, duties, and liabilities vested in the authority created by this Act, shall have power
138 and is authorized to provide by resolution for the issuance of revenue bonds of the authority
139 for the purpose of paying all or any part of the costs of an undertaking under the revenue
140 bond law and for the purpose of refunding revenue bonds or other obligation previously
141 issued; provided, however, that no such revenue bonds shall be issued to finance a project
142 for the Lamar County School District or any other political subdivision of the state located
143 within Lamar County without the consent of the governing body of Lamar County. Revenue
144 bonds shall be undertaken, issued, priced, validated, sold, paid, redeemed, refunded, secured,
145 and replaced in accordance with the provisions of the revenue bond law.

146 **SECTION 6.**

147 Revenue bonds; conditions precedent to issuance.

148 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
149 resolution, the authority shall determine that the project financed with the proceeds of the
150 revenue bonds is self-liquidating. Revenue bonds may be issued without any other
151 proceedings or the happening of any other conditions or things other than those proceedings,
152 conditions, and things which are specified or required by this Act. Any resolution providing
153 for the issuance of revenue bonds under the provisions of this Act shall become effective
154 immediately upon its passage and need not be published or posted, and any such resolution
155 may be passed at any regular or special or adjourned meeting of the authority by a majority
156 of its members.

157 **SECTION 7.**

158 Credit not pledged.

159 Revenue bonds of the authority shall not be deemed to constitute a debt of Lamar County,
160 Georgia, nor a pledge of the faith and credit of such county, but such revenue bonds shall be
161 payable solely from the fund hereinafter provided for. The issuance of such revenue bonds
162 shall not directly, indirectly, or contingently obligate such county to levy or to pledge any
163 form of taxation whatsoever for payment of such revenue bonds or to make any appropriation
164 for their payment, and all such revenue bonds shall contain recitals on their face covering
165 substantially the foregoing provisions of this section. Notwithstanding the foregoing
166 provisions, this Act shall not affect the ability of the authority and any political subdivision
167 or municipality to enter into an intergovernmental contract pursuant to which the political
168 subdivision or municipality agrees to pay amounts sufficient to pay operating charges and
169 other costs of the authority or any project including, without limitation, the principal of and
170 interest on revenue bonds in consideration for services or facilities of the authority.

171 **SECTION 8.**

172 Trust indenture as security.

173 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
174 indenture by and between the authority and a corporate trustee, which may be any trust
175 company or bank having the powers of a trust company within or without this state. Either
176 the resolution providing for the issuance of the revenue bonds or such trust indenture may
177 contain such provisions for protecting and enforcing the rights and remedies of the
178 bondholders as may be reasonable and proper and not in violation of law, including
179 covenants setting forth the duties of the authority in relation to the acquisition and
180 construction of the project, the maintenance, operation, repair, and insuring of the project,
181 and the custody, safeguarding, and application of all money.

182 **SECTION 9.**

183 To whom proceeds of bonds shall be paid.

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

189 **SECTION 10.**

190 Sinking fund.

191 The money received pursuant to an intergovernmental contract and the revenues, fees, tolls,
192 fines, charges, and earnings derived from any particular project or projects, regardless of
193 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
194 particular project for which revenue bonds have been issued, unless otherwise pledged and
195 allocated, may be pledged and allocated by the authority to the payment of the principal and
196 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
197 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever
198 source received shall be set aside at regular intervals as may be provided in the resolution or
199 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
200 the payment of:

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

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

211 **SECTION 11.**

212 Venue and jurisdiction.

213 Any action to protect or enforce any rights under the provisions of this Act or any suit or
214 action against such authority shall be brought in the Superior Court of Lamar County,
215 Georgia, and any action pertaining to validation of any revenue bonds issued under the
216 provisions of this Act shall likewise be brought in said court which shall have exclusive,
217 original jurisdiction of such actions.

218 **SECTION 12.**

219 Interest of bondholders protected.

220 While any of the revenue bonds issued by the authority remain outstanding, the powers,
 221 duties, or existence of such authority or its officers, employees, or agents shall not be
 222 diminished or impaired in any manner that will affect adversely the interests and rights of the
 223 holders of such revenue bonds, and no other entity, department, agency, or authority shall be
 224 created which will compete with the authority to such an extent as to affect adversely the
 225 interest and rights of the holders of such revenue bonds nor shall the state itself so compete
 226 with the authority. The provisions of this Act shall be for the benefit of the authority and the
 227 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
 228 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

229 **SECTION 13.**

230 Money received considered trust funds.

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

234 **SECTION 14.**

235 Purpose of the authority.

236 Without limiting the generality of any provision of this Act, the general purpose of the
 237 authority is declared to be that of providing buildings, facilities, and services for the residents
 238 of Lamar County, Georgia.

239 **SECTION 15.**

240 Rates, charges, and revenues; use.

241 The authority is hereby authorized to prescribe and fix rates and to revise same from time to
 242 time and to collect revenues, tolls, fees, and charges for the services, facilities, and
 243 commodities furnished, and in anticipation of the collection of the revenues, to issue revenue
 244 bonds or other types of obligations as provided in this Act to finance, in whole or in part, the
 245 costs of the project, and to pledge to the punctual payment of said revenue bonds or other
 246 obligations all or any part of the revenues.

247 **SECTION 16.**

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

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

252 **SECTION 17.**

253 Tort immunity.

254 To the extent permitted by law, the authority shall have the same immunity and exemption
255 from liability for torts and negligence as Lamar County, Georgia; and the officers, agents,
256 and employees of the authority when in the performance of the work of the authority shall
257 have the same immunity and exemption from liability for torts and negligence as the officers,
258 agents, and employees of Lamar County, Georgia, when in the performance of their public
259 duties or work of the county.

260 **SECTION 18.**

261 Effect on other governments.

262 This Act shall not and does not in any way take from Lamar County, Georgia, or any county
263 or municipality the authority to own, operate, and maintain public facilities or to issue
264 revenue bonds as provided by the revenue bond law.

265 **SECTION 19.**

266 Liberal construction of Act.

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

269 **SECTION 20.**

270 General repealer.

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