

The House Committee on Intragovernmental Coordination - Local Legislation offers the following substitute to HB 562:

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 police, fire, roads, city owned buildings, parks and recreation, and
76 storm-water facilities, and equipment that in each case is necessary or convenient for the
77 efficient operation of the City of Eton or any department, agency, division, or
78 commission thereof, and no others. For the avoidance of doubt, the authority may not
79 carry out any "undertaking" or otherwise exercise its powers, except with respect to
80 buildings, facilities, and equipment used directly for or as police, fire, roads, city owned
81 buildings, parks and recreation, and storm-water purposes, notwithstanding any
82 provision of this Act to the contrary. Without limitation, in no event shall the purposes
83 or powers of the authority extend to water or sewer projects.

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

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

89 (6) "Self-liquidating" means any project which the revenues and earnings to be derived
90 by the authority therefrom, including but not limited to any contractual payments with
91 governmental or private entities, and all properties used, leased, and sold in connection
92 therewith, together with any grants, will be sufficient to pay the costs of operating,
93 maintaining, and repairing the project and to pay the principal and interest on the revenue

94 bonds or other obligations which may be issued for the purpose of paying the costs of the
95 project.

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

97 **SECTION 4.**

98 Powers.

99 The authority shall have the power to:

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

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

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

114 (4) Appoint, select, and employ officers, agents, and employees, including engineering,
115 architectural, and construction experts, fiscal agents, and attorneys, and fix their
116 respective compensations;

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

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

127 (7) Pay the costs of the project with the proceeds of revenue bonds or other obligations
128 issued by the authority or from any grant or contribution from the United States of

129 America or any agency or instrumentality thereof or from the state or any agency or
130 instrumentality or other political subdivision thereof or from any other source
131 whatsoever;

132 (8) Accept loans or grants of money or materials or property of any kind from the United
133 States of America or any agency or instrumentality thereof, upon such terms and
134 conditions as the United States of America or such agency or instrumentality may
135 require;

136 (9) Accept loans or grants of money or materials or property of any kind from the state
137 or any agency or instrumentality or political subdivision thereof, upon such terms and
138 conditions as the state or such agency or instrumentality or political subdivision may
139 require;

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

142 (11) Do all things necessary or convenient to carry out the powers expressly given in this
143 Act, but only within the scope of the powers and purposes of the authority expressly
144 stated in this Act.

145 **SECTION 5.**

146 Revenue bonds.

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

160 **SECTION 6.**

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

162 The authority shall determine the form of the revenue bonds and shall fix the denomination
163 or denominations of the revenue bonds. The revenue bonds may be issued in coupon or
164 registered form, or both, as the authority may determine, and provision may be made for
165 registration and exchangeability privileges. The authority shall fix the place or places of
166 payment of principal and interest thereon.

167 **SECTION 7.**

168 Revenue bonds; signatures; seal.

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

183 **SECTION 8.**

184 Revenue bonds; negotiability; exemption from taxation.

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

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SECTION 9.

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Revenue bonds; sale; price; proceeds.

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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.

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SECTION 10.

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Interim receipts and certificates or temporary revenue bonds.

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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.

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SECTION 11.

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Replacement of lost or mutilated revenue bonds.

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

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SECTION 12.

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Conditions precedent to issuance of revenue bonds.

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The authority shall adopt a resolution authorizing the issuance of 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 immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special or adjourned meeting of the authority by a majority of its members.

215 **SECTION 13.**

216 Credit not pledged.

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

229 **SECTION 14.**

230 Trust indenture as security.

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

240 **SECTION 15.**

241 To whom proceeds of bonds shall be paid.

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

247 **SECTION 16.**

248 Sinking fund.

249 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
 250 fines, charges, and earnings derived from any particular project or projects, regardless of
 251 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
 252 particular project for which revenue bonds have been issued, unless otherwise pledged and
 253 allocated, may be pledged and allocated by the authority to the payment of the principal and
 254 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
 255 revenue bonds or the trust indenture may provide, and such funds so pledged from whatever
 256 source received shall be set aside at regular intervals as may be provided in the resolution or
 257 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
 258 the payment of:

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

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

269 **SECTION 17.**

270 Remedies of bondholders.

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

281 **SECTION 18.**

282 Validation.

283 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
284 the procedure of the Revenue Bond Law. The petition for validation shall also make party
285 defendant to such action the state; any institution, department, or other agency thereof; and
286 any county, municipality, school district, or other political subdivision or authority of the
287 state which has contracted with the authority for services or facilities relating to the project
288 for which revenue bonds are to be issued and sought to be validated, and such defendant shall
289 be required to show cause, if any exists, why such contract or contracts shall not be
290 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.
291 The revenue bonds, when validated, and the judgment of validation shall be final and
292 conclusive with respect to such revenue bonds and the security for the payment thereof and
293 interest thereon and against the authority and all other defendants.

294 **SECTION 19.**

295 Venue and jurisdiction.

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

301 **SECTION 20.**

302 Interest of bondholders protected.

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

312 **SECTION 21.**

313 Moneys received considered trust funds.

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

317 **SECTION 22.**

318 Purpose of the authority.

319 Without limiting the generality of any provision of this Act, the general purpose of the
320 authority is declared to be that of providing buildings, facilities, equipment, and services for
321 the citizens of the City of Eton, Georgia, but only to the extent that any such buildings,
322 facilities, equipment, and services constitute a project.

323 **SECTION 23.**

324 Rates, charges, and revenues; use.

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

331 **SECTION 24.**

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

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

337 **SECTION 25.**

338 Tort immunity.

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

345 **SECTION 26.**

346 Tax-exempt status of the authority.

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

349 **SECTION 27.**

350 Effect on other governments.

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

354 **SECTION 28.**

355 Repealer.

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