

House Bill 889 (AS PASSED HOUSE AND SENATE)

By: Representative Morris of the 156<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Toombs County Public Facilities Authority and to provide for the appointment  
2 of members of the authority; to confer powers upon the authority; to provide for purpose and  
3 scope of operations of the authority; to provide for definitions; to authorize the issuance of  
4 revenue bonds of the authority; to fix and provide the venue and jurisdiction of actions  
5 relating to any provisions of this Act; to provide for monies received and trust funds; to  
6 provide for tort immunity; to provide for tax exemption, rates, charges, and revenues; to  
7 provide for effect on other governments; to provide for construction of act and severability;  
8 to provide for a short title; to provide for related matters; to provide for an effective date; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Short title.

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

15 **SECTION 2.**

16 Toombs County Public Facilities Authority.

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

22 (b) The authority shall consist of five members who shall be appointed by the Board of  
23 Commissioners of Toombs County. All appointments shall be made for terms of one year

24 and until successors are appointed and qualified. Immediately after such appointments, the  
 25 members of the authority shall enter upon their duties. To be eligible for appointment as a  
 26 member of the authority, a person shall be at least 21 years of age and a resident of Toombs  
 27 County, Georgia, for at least two years prior to the date of his or her appointment and shall  
 28 not have been convicted of a felony. Any member of the authority may be selected and  
 29 appointed to succeed himself or herself. A member may be removed from office by the  
 30 board of commissioners for failure to perform the appropriate duties of membership. The  
 31 County Manager for Toombs County shall serve as an ex officio member of the authority and  
 32 shall act as a nonvoting member.

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

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

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

### 46 **SECTION 3.**

#### 47 **Definitions.**

48 As used in this Act, the term:

49 (1) "Authority" means the Toombs County Public Facilities Authority created by this  
 50 Act.

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

58 authorized in this Act; working capital; and all other costs necessary to acquire, construct,  
59 add to, extend, improve, equip, operate, and maintain the project.

60 (3) "Project" means all buildings, facilities, and equipment necessary or convenient for  
61 the efficient operation of jails, courthouses, and government administration offices for  
62 Toombs County, Georgia, or any department, agency, division, or commission thereof.

63 (4) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the  
64 "Revenue Bond Law."

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

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

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

#### 75 **SECTION 4.**

#### 76 Powers.

77 The authority shall have the power:

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

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

82 (3) To acquire in its own name by purchase on such terms and conditions and in such  
83 manner as it may deem proper or by condemnation in accordance with the provisions of  
84 any and all existing laws applicable to the condemnation of property for public use, real  
85 property, or rights or easements therein, or franchises necessary or convenient for its  
86 corporate purposes; to use the same so long as its corporate existence shall continue; and  
87 to lease or make contracts with respect to the use of or disposal of the same in any  
88 manner it deems to the best advantage of the authority. The authority shall be under no  
89 obligation to accept and pay for any property condemned under this Act except from the  
90 funds provided under the authority of this Act. In any proceedings to condemn, such  
91 orders may be made by the court having jurisdiction of the suit, action, or proceedings  
92 as may be just to the authority and to the owners of the property to be condemned. No

93 property shall be acquired under the provisions of this Act upon which any lien or  
94 encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of  
95 money is to be deposited in trust to pay and redeem the fair value of such lien or  
96 encumbrance;

97 (4) To appoint, select, and employ officers, agents, and employees, including  
98 engineering, architectural, and construction experts, fiscal agents, and attorneys, and to  
99 fix their respective compensations;

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

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

111 (7) To pay the costs of the project with the proceeds of revenue bonds or other  
112 obligations issued by the authority or from any grant or contribution from the United  
113 States or any agency or instrumentality thereof or from this state or any agency or  
114 instrumentality or other political subdivision thereof or from any other source  
115 whatsoever;

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

119 (9) To accept loans or grants of money or materials or property of any kind from this  
120 state or any agency or instrumentality or political subdivision or municipal corporation  
121 thereof, upon such terms and conditions as this state or such agency or instrumentality  
122 or political subdivision or municipal corporation may require;

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

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

128 (12) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the  
129 manner in which its business is transacted; and

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

132 **SECTION 5.**

133 Revenue bonds.

134 The authority, or any authority or body which has or which may in the future succeed to the  
135 powers, duties, and liabilities vested in the authority created by this Act, shall have power  
136 and is authorized, pursuant to the Revenue Bond Law, to provide by resolution for the  
137 issuance of revenue bonds of the authority for the purpose of paying all or any part of the  
138 costs of a project and for the purpose of refunding revenue bonds or other obligations  
139 previously issued; provided, however, that no such revenue bonds shall be issued to finance  
140 a project for the Toombs County School District or any other political subdivision or  
141 municipal corporation of the state located within Toombs County other than Toombs County,  
142 Georgia. Revenue bonds shall be undertaken, issued, priced, validated, sold, paid, redeemed,  
143 refunded, secured, and replaced in accordance with the provisions of the Revenue Bond Law.

144 **SECTION 6.**

145 Revenue bonds; conditions precedent to issuance.

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

155 **SECTION 7.**

156 Credit not pledged.

157 Revenue bonds of the authority shall not be deemed to constitute a debt of Toombs County,  
158 Georgia, or the State of Georgia, nor a pledge of the faith and credit of the state or such  
159 county, but such revenue bonds shall be payable solely from the fund hereinafter provided  
160 for. The issuance of such revenue bonds shall not directly, indirectly, or contingently

161 obligate the State or such county to levy or to pledge any form of taxation whatsoever for  
162 payment of such revenue bonds or to make any appropriation for their payment, and all such  
163 revenue bonds shall contain recitals on their face covering substantially the foregoing  
164 provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect  
165 the ability of the authority and any political subdivision or municipal corporation to enter into  
166 an intergovernmental contract pursuant to which the political subdivision or municipal  
167 corporation agrees to pay amounts sufficient to pay operating charges and other costs of the  
168 authority or any project including, without limitation, the principal of and interest on revenue  
169 bonds in consideration for services or facilities of the authority.

#### 170 **SECTION 8.**

171 Trust indenture as security.

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

#### 181 **SECTION 9.**

182 Same; remedies of bondholders.

183 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the  
184 extent that the rights given herein may be restricted by resolution passed before the issuance  
185 of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,  
186 mandamus, or other proceedings, protect and enforce any and all rights it may have under  
187 the laws of the state, including specifically, but without limitation, the Revenue Bond Law,  
188 or granted hereunder or under such resolution or trust indenture, and may enforce and compel  
189 performance of all duties required by this Act or by such resolution or trust indenture to be  
190 performed by the authority or any officer thereof, including the fixing, charging, and  
191 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and  
192 services furnished.

193 **SECTION 10.**

194 Same; validation.

195 Revenue bonds and the security therefor shall be issued, confirmed, and validated in  
 196 accordance with the provisions of the Revenue Bond Law. The petition for validation shall  
 197 also make Toombs County party defendant to such action if the county has contracted with  
 198 the authority for services or facilities relating to the project for which revenue bonds are to  
 199 be issued and sought to be validated; and such defendant shall be required to show cause, if  
 200 any exists, as to why such contract or contracts shall not be adjudicated as a part of the basis  
 201 for the security for the payment of any such revenue bonds. The revenue bonds, when  
 202 validated, and the judgment of validation shall be final and conclusive with respect to such  
 203 revenue bonds and the security for the payment thereof and interest thereon and against the  
 204 authority and all other defendants.

205 **SECTION 11.**

206 To whom proceeds of bonds shall be paid.

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

212

213 **SECTION 12.**

214 Sinking fund.

215 The money received pursuant to an intergovernmental contract and the revenues, fees, tolls,  
 216 fines, charges, and earnings derived from any particular project or projects, regardless of  
 217 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a  
 218 particular project for which revenue bonds have been issued, unless otherwise pledged and  
 219 allocated, may be pledged and allocated by the authority to the payment of the principal and  
 220 interest on revenue bonds of the authority as the resolution authorizing the issuance of the  
 221 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever  
 222 source received shall be set aside at regular intervals as may be provided in the resolution or  
 223 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with  
 224 the payment of:

225 (1) The interest upon such revenue bonds as the same shall fall due;

226 (2) The principal or purchase price of such revenue bonds as the same shall fall due;

227 (3) Any premium upon such revenue bonds as the same shall fall due;

228 (4) The purchase of such revenue bonds in the open market; and

229 (5) The necessary charges of the paying agent for paying principal and interest.

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

235 **SECTION 13.**

236 Venue and jurisdiction.

237 Any action to protect or enforce any rights under the provisions of this Act or any suit or  
238 action against such authority shall be brought in the Superior Court of Toombs County,  
239 Georgia, and any action pertaining to validation of any revenue bonds issued under the  
240 provisions of this Act shall likewise be brought in said court which shall have exclusive,  
241 original jurisdiction of such actions.

242 **SECTION 14.**

243 Interest of bondholders protected.

244 While any of the revenue bonds issued by the authority remain outstanding, the powers,  
245 duties, or existence of such authority or its officers, employees, or agents shall not be  
246 diminished or impaired in any manner that will affect adversely the interests and rights of the  
247 holders of such revenue bonds; and no other entity, department, agency, or authority shall  
248 be created which will compete with the authority to such an extent as to affect adversely the  
249 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete  
250 with the authority. The provisions of this Act shall be for the benefit of the authority and the  
251 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the  
252 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.



253 **SECTION 15.**

254 Money received considered trust funds.

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

258 **SECTION 16.**

259 Purpose of the authority.

260 The purpose of the authority is declared to be that of providing buildings, facilities, and  
261 services related to the construction and operation of jails, courthouses, and government  
262 administration centers for Toombs County, Georgia.

263 **SECTION 17.**

264 Rates, charges, and revenues; use.

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

271 **SECTION 18.**

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

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

276 **SECTION 19.**

277 Tort immunity.

278 To the extent permitted by law, the authority shall have the same immunity and exemption  
279 from liability for torts and negligence as Toombs County, Georgia; and the officers, agents,  
280 and employees of the authority when in the performance of the work of the authority shall

281 have the same immunity and exemption from liability for torts and negligence as the officers,  
282 agents, and employees of Toombs County, Georgia, when in the performance of their public  
283 duties or work of the county.

284 **SECTION 20.**

285 Tax exemption.

286 The income of the authority, the properties of the authority, both real and personal, and all  
287 revenue bonds, certificates of participation, notes, and other forms of obligations issued by  
288 the authority shall be exempt from all state and local taxes and special assessments of any  
289 kind to the extent permitted by and in accordance with the general laws of the state.

290 **SECTION 21.**

291 Effect on other governments.

292 This Act shall not and does not in any way take from Toombs County, Georgia, or any  
293 county or municipal corporation the authority to own, operate, and maintain public facilities  
294 or to issue revenue bonds as provided by the Revenue Bond Law.

295 **SECTION 22.**

296 Liberal construction of Act.

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

299 **SECTION 23.**

300 Severability; effect of partial invalidity of Act.

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

304 **SECTION 24.**

305 Effective date.

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

308

**SECTION 25.**

309

General repealer.

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