

House Bill 871 (AS PASSED HOUSE AND SENATE)

By: Representative Holmes of the 129th

A BILL TO BE ENTITLED
AN ACT

1 To create the Jasper County Public Facilities Authority; to provide for the appointment of
2 members of the authority; to provide for its purpose and scope of operations; to provide for
3 definitions; to confer powers upon the authority; to authorize the issuance of revenue bonds
4 and other obligations; to provide for venue and jurisdiction of actions; to provide for monies
5 received and trust funds; to provide for tort and other immunities; to provide for tax
6 exemption, rates, charges, and revenues; to provide for effect on other governments; to
7 provide for the conveyance of property upon dissolution; to provide an area of operation; to
8 prohibit the authority from imposing taxes or exercising eminent domain; to provide for
9 construction and severability; to provide for a short title; to provide for related matters; to
10 provide an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 style="text-align:center">Short title.

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

16 style="text-align:center">**SECTION 2.**

17 style="text-align:center">Jasper County Public Facilities Authority; creation.

18 (a) There is hereby created a public body corporate and politic to be known as the "Jasper
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 said 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 be separate and distinct from any public
23 corporation or other entity heretofore created by the General Assembly and shall be an

24 instrumentality of the state exercising governmental and proprietary powers. The authority
25 shall have perpetual existence.

26 (b) The authority shall consist of five members who shall be appointed by the governing
27 authority of the county. The members of the governing authority of the county may be
28 appointed to serve as members of the authority. All appointments shall be made for terms
29 of one year and until successors are appointed and qualified. Immediately after such
30 appointments the members of the authority shall enter upon their duties. To be eligible for
31 appointment as a member of the authority, a person shall be at least 21 years of age, shall be
32 a resident of the county for at least two years prior to the date of his or her appointment, and
33 shall not have been convicted of a felony. Any member of the authority may be selected and
34 appointed to succeed himself or herself. Any vacancy on the authority shall be filled in the
35 same manner as was the original appointment of the member whose termination of
36 membership resulted in such vacancy and the person so selected and appointed shall serve
37 for the remainder of the unexpired term.

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

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

47 (e) Three members of the authority shall constitute a quorum. A majority vote of a quorum
48 shall authorize any legal act of the authority, including all things necessary to authorize and
49 issue revenue bonds and other obligations. No vacancy on the authority shall impair the right
50 of the quorum to exercise all of the rights and perform all of the duties of the authority.

51 (f) The authority shall make rules and regulations for its own government. The members of
52 the governing authority of the county, as officers of the county, may vote on transactions
53 between the county and the authority and the members of the authority may likewise vote on
54 transactions between the county and the authority and the same shall not be deemed to create
55 any conflict of interest.

56

SECTION 3.

57

Purpose; scope of operations.

58 The authority is created for the purpose of promoting the public good and general welfare
 59 of the citizens of the county and of the municipalities located within the county and financing
 60 and providing facilities, equipment, and services within the county, and in the municipalities
 61 located within the county, for sale to, lease or sublease to, ownership, or operation by any
 62 public body or any private person, specifically including the county or the municipalities
 63 located within the county as otherwise authorized by law.

64

SECTION 4.

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Definitions.

66 As used in this Act, the term:

67 (1) "Authority" means the Jasper County Public Facilities Authority created by this Act.

68 (2) "County" means Jasper County, Georgia.

69 (3) "Costs of the project" means and embraces the cost of construction, renovation, or
 70 demolition of buildings; the cost of all lands, properties, rights, easements, and franchises
 71 acquired; the cost of all machinery and equipment; issuance costs, including, but not
 72 limited to, fees or discounts of underwriters or placement agents; funding of reserve
 73 accounts; financing charges; interest prior to and during construction and for 12 months
 74 after completion of construction; the cost of engineering, architectural, fiscal agent,
 75 accounting, and legal services and of plans, specifications, and expenses necessary or
 76 incidental to determining the feasibility or practicability of the project; administrative
 77 expenses, including expenses relating to financing or refinancing any project; working
 78 capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip,
 79 operate, maintain, or finance the project.

80 (4) "Obligations" means and includes revenue bonds, bond anticipation notes, other
 81 promissory notes, certificates of participation, custodial receipts, or other similar
 82 instruments creating interests in any contracts, lease agreements, or installment sales
 83 agreements or in the amounts payable to the authority, directly or indirectly, thereunder.

84 (5) "Private person" means any individual or any legal entity, other than a public body,
 85 whether operated for profit or not for profit.

86 (6) "Project" means all buildings, facilities, and equipment necessary or convenient for
 87 the efficient operation of the county or any municipality located within the county or any
 88 department, agency, division, or commission thereof permitted by the Revenue Bond
 89 Law.

90 (7) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia
 91 (codified in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended), or any
 92 other similar law hereinafter enacted.

93 (8) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

94 (9) "Self-liquidating" means any project which the revenues and earnings to be derived
 95 by the authority therefrom, including, but not limited to, any contractual payments with
 96 governmental or private entities, and all properties used, leased, and sold in connection
 97 therewith, together with any grants and any other available funds, will be sufficient to pay
 98 the costs of operating, maintaining, and repairing the project and to pay the principal and
 99 interest on the revenue bonds or other obligations which may be issued for the purpose
 100 of paying the costs of the project.

101 (10) "State" means the State of Georgia.

102 SECTION 5.

103 Powers.

104 The authority shall have the power:

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

106 (2) To acquire by purchase, lease, gift, condemnation, construction, or otherwise, and
 107 with or without consideration, to hold, operate, maintain, lease, renovate, and dispose of
 108 real and personal property of every kind and character for its corporate purposes;

109 (3) To acquire in its own name by purchase, on such terms and conditions and in such
 110 manner as it may deem proper, or by condemnation in accordance with the provisions of
 111 any and all existing laws applicable to the condemnation of property for public use, real
 112 property or rights or easements therein, or franchises necessary or convenient for its
 113 corporate purposes, and to use the same so long as its corporate existence shall continue,
 114 and to lease or make contracts with respect to the use of or disposition of the same in any
 115 manner it deems to the best advantage of the authority, the authority being under no
 116 obligation to accept and pay for any property condemned under this Act, except from the
 117 funds provided under the authority of this Act, and in any proceedings to condemn, such
 118 orders may be made by the court having jurisdiction of the suit, action, or proceedings
 119 as may be just to the authority and to the owners of the property to be condemned, and
 120 no property shall be acquired under the provisions of this Act upon which any lien or
 121 encumbrance exists, unless at the time such property is so acquired a sufficient sum of
 122 money is to be deposited in trust to pay and redeem the fair value of such lien or
 123 encumbrance;

- 124 (4) To acquire, construct, add to, extend, improve, equip, operate, maintain, lease, and
125 dispose of projects;
- 126 (5) To execute, with other public bodies or private persons, contracts, leases, installment
127 sale agreements, and other agreements and instruments necessary or convenient in
128 connection with the acquisition, construction, addition, extension, improvement,
129 equipping, operation, maintenance, disposition, or financing of a project and, without
130 limiting the generality of the foregoing, authority is specifically granted to the authority
131 to enter into contracts, lease agreements, rental agreements, installment sale agreements,
132 and related agreements with other public bodies, specifically including the county and the
133 municipalities located within the county, relating to the provision of any project or
134 services for a term not exceeding 50 years, as provided in Article IX, Section III,
135 Paragraph I(a) of the Constitution of Georgia;
- 136 (6) To appoint, select, and employ officers, agents, and employees, including, but not
137 limited to, engineering, architectural, and construction experts, fiscal agents, and
138 attorneys, and to fix their respective compensations;
- 139 (7) To pay the costs of the project with the proceeds of revenue bonds, certificates of
140 participation, notes, or other forms of obligations issued by the authority; from any grant
141 or contribution from the United States of America or any agency or instrumentality
142 thereof; from the state or any agency, instrumentality, municipality, or political
143 subdivision thereof; from any private foundation or other private source; or from any
144 other source whatsoever;
- 145 (8) To pledge to the payment of revenue bonds, certificates of participation, notes, and
146 other forms of obligations issued by the authority any and all revenues and properties of
147 the authority, both real and personal;
- 148 (9) To accept loans or grants of money or materials or property of any kind from the
149 United States of America or any agency or instrumentality thereof, upon such terms and
150 conditions as the United States of America or such agency or instrumentality may
151 require;
- 152 (10) To accept loans or grants of money or materials or property of any kind from the
153 state or any agency, instrumentality, municipality, or political subdivision thereof, upon
154 such terms and conditions as the state or such agency, instrumentality, municipality, or
155 political subdivision may require;
- 156 (11) To accept loans or grants of money or materials or property of any kind from any
157 public or private foundation or any other private source upon such terms and conditions
158 as such public or private foundation or other private source may require;
- 159 (12) To borrow money for any of its corporate purposes and to issue or execute revenue
160 bonds, certificates of participation, notes, and other forms of obligations, deeds to secure

- 161 debt, security agreements, and such other instruments as may be necessary or convenient
162 to evidence and secure such borrowing;
- 163 (13) To the extent not prohibited by the Constitution of Georgia or by general law, to be
164 a co-owner, along with other public bodies and private persons, of any property or
165 business entity if the authority finds and determines that such co-ownership is in the best
166 interests of the authority and will serve the public purposes of the authority;
- 167 (14) To purchase policies of insurance as may be deemed appropriate for its corporate
168 purposes;
- 169 (15) To enter into interest rate swaps, collars, or other types of interest rate management
170 agreements, or credit enhancement or liquidity agreements relating to any obligations of
171 the authority, provided that the obligation of the authority under such agreements shall
172 not be a general obligation of the authority but shall be a limited obligation of the
173 authority payable from a specific source of funds identified for such purpose;
- 174 (16) To contract with others, including private persons, for services relating to the
175 management, operation, sale, or leasing of any project;
- 176 (17) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
177 manner in which its business is transacted;
- 178 (18) To prescribe rules, regulations, service policies, and procedures for the operation
179 of any project;
- 180 (19) To exercise any power usually possessed by private corporations performing similar
181 functions; and
- 182 (20) To do all things necessary or convenient to carry out the powers expressly given in
183 this Act.

184 SECTION 6.

185 Revenue bonds and other obligations.

186 The authority shall have power and is hereby authorized to provide by resolution for the
187 issuance of revenue bonds, in the manner provided by the Revenue Bond Law, or other
188 obligations for the purpose of paying all or any part of the costs of the project and for the
189 purpose of refunding revenue bonds or other obligations previously issued. The principal of
190 and interest on such revenue bonds shall be payable solely from the revenues and properties
191 pledged to the payment of such revenue bonds. The revenue bonds issued by the authority
192 shall contain such terms as the authority shall determine are in the best interest of the
193 authority; provided, however, that no revenue bonds shall have a maturity exceeding 40
194 years. The authority may issue other obligations for the purpose of paying all or any part of
195 the costs of any one or more projects, including the cost of constructing, reconstructing,

196 equipping, extending, adding to, or improving any such project, or for the purpose of
197 refunding, as herein provided, any such bonds or other obligations of the authority or to
198 refund bonds or other obligations of any other authority or public body previously issued to
199 finance or refinance the costs of a project.

200 **SECTION 7.**

201 Same; signatures; seal.

202 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
203 vice chairperson of the authority and the attesting manual or facsimile signature of the
204 secretary or secretary-treasurer of the authority, and the official seal of the authority shall be
205 impressed or imprinted thereon. Any revenue bonds may bear the manual or facsimile
206 signature of such persons as at the actual time of the execution of such revenue bonds shall
207 be duly authorized or hold the proper office, although at the date of issuance of such revenue
208 bonds such person may not have been so authorized or shall not have held such office. In
209 case any officer whose signature appears on any revenue bond shall cease to be such officer
210 before the delivery of such revenue bond, such signature shall nevertheless be valid and
211 sufficient for all purposes, the same as if that person had remained in office until such
212 delivery.

213 **SECTION 8.**

214 Same; negotiability; exemption from taxation.

215 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
216 of negotiable instruments under the laws of the state. All revenue bonds, their transfer, and
217 the income therefrom shall be exempt from all taxation within the state as provided by the
218 Revenue Bond Law.

219 **SECTION 9.**

220 Same; conditions precedent to issuance.

221 The authority shall adopt a resolution authorizing the issuance of the revenue bonds or other
222 obligations. In the resolution, the authority shall determine that the project financed or
223 refinanced with the proceeds of the revenue bonds or other obligations is self-liquidating.
224 Revenue bonds may be issued without any other proceedings or the happening of any other
225 conditions or things other than those proceedings, conditions, and things which are specified
226 or required by this Act and the Revenue Bond Law. Any resolution providing for the

227 issuance of revenue bonds or other obligations under the provisions of this Act shall become
228 effective immediately upon its adoption and need not be published or posted, and any such
229 resolution may be adopted at any regular or special meeting of the authority.

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SECTION 10.

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Same; credit not pledged.

232 Revenue bonds or other obligations shall not be deemed to constitute a debt of the state or
233 the county nor a pledge of the faith and credit of the state or the county. Revenue bonds or
234 other obligations shall be payable solely from the revenues and properties pledged to the
235 payment of such revenue bonds or other obligations. The issuance of revenue bonds or other
236 obligations shall not directly, indirectly, or contingently obligate the state, the county, or any
237 municipality located within the county to levy or to pledge any form of taxation whatsoever
238 for the payment of such revenue bonds or other obligations or to make any appropriation for
239 their payment. No holder of any bond or other obligation or receiver or trustee in connection
240 therewith shall have the right to enforce the payment thereof against any property of any
241 other public body nor shall any such bond or other obligation constitute a charge, lien, or
242 encumbrance, legal or equitable, upon any such property unless otherwise provided by an
243 intergovernmental contract executed by the authority and such other governmental body. All
244 revenue bonds shall contain recitals on their face covering substantially the foregoing
245 provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect
246 the ability of the authority and the county or any municipality located within the county to
247 enter into an intergovernmental contract pursuant to which the county or the municipality
248 located within the county agrees to pay amounts sufficient to pay operating charges and other
249 costs of the authority or any project including, without limitation, the principal of and interest
250 on revenue bonds or other obligations, in consideration for services, facilities, or equipment
251 of the authority.

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SECTION 11.

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Same; trust indenture as security.

254 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
255 indenture by and between the authority and a corporate trustee, which may be any trust
256 company or bank having the powers of a trust company within or without the state. Such
257 trust indenture may contain such provisions for protecting and enforcing the rights and
258 remedies of the bondholders as may be reasonable and proper and not in violation of law,
259 including covenants setting forth the duties of the authority in relation to the acquisition and

260 construction of the project, the maintenance, operation, repair, and insuring of the project,
261 and the custody, safeguarding, and application of all monies.

262 **SECTION 12.**

263 Same; remedies of bondholders.

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

274 **SECTION 13.**

275 Same; validation.

276 Revenue bonds and the security therefor shall be issued, confirmed, and validated in
277 accordance with the provisions of the Revenue Bond Law. The petition for validation shall
278 also make the county, any municipality located within the county, or any other private person
279 or governmental body a party defendant to such action if the county, any such municipality,
280 private person, or governmental body has contracted with the authority for services or
281 facilities relating to the project for which revenue bonds are to be issued and sought to be
282 validated, and such defendant shall be required to show cause, if any exists, why such
283 contract or contracts shall not be adjudicated as a part of the basis for the security for the
284 payment of any such revenue bonds. The revenue bonds when validated, and the judgment
285 of validation, shall be final and conclusive with respect to such revenue bonds and the
286 security for the payment thereof and interest thereon and against the authority and all other
287 defendants.

288

SECTION 14.

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Same; interest of bondholders protected.

290 While any of the revenue bonds or other obligations issued by the authority remain
291 outstanding, the powers, duties, or existence of the authority or its officers, employees, or
292 agents shall not be diminished or impaired in any manner that will affect adversely the
293 interests and rights of the holders of such revenue bonds or other obligations, and no other
294 entity, department, agency, or authority shall be created which would compete with the
295 authority to such an extent as to affect adversely the interests and rights of the holders of
296 such revenue bonds or other obligations. The provisions of this Act shall be for the benefit
297 of the authority and the holders of any such revenue bonds under the provisions hereof and
298 shall constitute a contract with the holders of such revenue bonds.

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SECTION 15.

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Venue and jurisdiction.

301 Any action to protect or enforce any rights under the provisions of this Act or any suit or
302 action against such authority shall be brought in the Superior Court of Jasper County,
303 Georgia, and any action pertaining to validation of any revenue bonds issued under the
304 provisions of this Act shall likewise be brought in such court, which shall have exclusive,
305 original jurisdiction of such actions. Service upon the authority of any process, subpoena,
306 or summons shall be effected by serving the same personally upon any member of the
307 authority.

308

SECTION 16.

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Monies received considered trust funds.

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

313

SECTION 17.

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Immunity.

315 To the extent permitted by law, the authority shall have the same immunity and exemption
316 from liability for torts and negligence as the county. The officers, agents, and employees of
317 the authority when in the performance of the work of the authority shall have the same

318 immunity and exemption from liability for torts and negligence as the officers, agents, and
319 employees of the county when in the performance of their public duties or work of the
320 county. To the extent permitted by law, the property of the authority shall not be subject to
321 levy and sale under legal process, except this provision shall not preclude a sale or
322 foreclosure of any property under the terms of any deed to secure debt, mortgage,
323 assignment, or security agreement that the authority has executed.

324 **SECTION 18.**

325 Tax exemption.

326 It is found, determined, and declared that the creation of the authority and the carrying out
327 of its corporate purposes are in all respects for the benefit of the people of this state and
328 constitute a public purpose and that the authority will be performing an essential
329 governmental function in the exercise of the powers conferred upon it by this Act. The
330 income of the authority, the properties of the authority, both real and personal, and all
331 revenue bonds, certificates of participation, notes, and other forms of obligations issued by
332 the authority shall be exempt from all state and local taxes and special assessments of any
333 kind to the extent permitted by and in accordance with the general laws of the state.

334 **SECTION 19.**

335 Rates, charges, and revenues; use.

336 The authority is hereby authorized to prescribe and fix rates and to revise same from time to
337 time and to collect revenues, tolls, fees, and charges for the services, facilities, and
338 commodities furnished, and in anticipation of the collection of the revenues, to issue revenue
339 bonds, certificates of participation, notes, or other types of obligations as herein provided to
340 finance, in whole or in part, the costs of the project, and to pledge to the punctual payment
341 of such revenue bonds or other obligations, all or any part of the revenues.

342 **SECTION 20.**

343 Effect on other governments.

344 This Act shall not and does not in any way take from the county, any municipality located
345 within the county, or any political subdivision the right to own, operate, and maintain public
346 facilities or to issue revenue bonds as provided by the Revenue Bond Law.

347 **SECTION 21.**

348 Area of operation.

349 The scope of the authority's operations shall be limited to the territory embraced within the
350 territorial limits of the county, as the same now or may hereafter exist; provided, however,
351 that nothing in this section shall prevent the authority from contracting with any entity or
352 body, public or private, outside of the county with respect to any project located inside the
353 county or located outside of the county in furtherance of its public purposes.

354 **SECTION 22.**

355 Imposition of taxes; eminent domain.

356 The authority shall not have the right to impose any tax on any person or property and shall
357 not have the right to exercise the power of eminent domain.

358 **SECTION 23.**

359 Conveyance of property upon dissolution.

360 Should the authority for any reason be dissolved after full payment of all revenue bonds and
361 other obligations of the authority and the termination of any leases, contracts, or options to
362 which the authority is a party, the interest and any redemption premiums thereon and title to
363 the property and funds of the authority held at the time of dissolution shall, prior to such
364 dissolution, be conveyed and transferred to such one or more public bodies as the authority
365 shall elect.

366 **SECTION 24.**

367 Liberal construction.

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

370 **SECTION 25.**

371 Severability.

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

375 **SECTION 26.**

376 Effective date.

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

379 **SECTION 27.**

380 Repealer.

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