

House Bill 976 (AS PASSED HOUSE AND SENATE)

By: Representatives Tankersley of the 160th, Burns of the 159th, and Parrish of the 158th

A BILL TO BE ENTITLED
AN ACT

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

15 **SECTION 2.**

16 Bulloch County Public Facilities Authority.

17 (a) There is hereby created a public body corporate and politic to be known as the "Bulloch
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 three members who shall be appointed by the Board of
23 Commissioners of Bulloch County. Members of the Board of Commissioners of Bulloch

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

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

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

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

44 **SECTION 3.**

45 Definitions.

46 As used in this Act, the term:

47 (1) "Authority" means the Bulloch County Public Facilities Authority created by this
 48 Act.

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

58 (3) "Project" means all buildings, facilities, and equipment necessary or convenient for
 59 the efficient operation of the county or any department, agency, division, or commission
 60 thereof permitted by the Revenue Bond Law.

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

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

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

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

73 SECTION 4.

74 Powers.

75 The authority shall have the power:

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

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

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

- 93 money is to be deposited in trust to pay and redeem the fair value of such lien or
94 encumbrance;
- 95 (4) To appoint, select, and employ officers, agents, and employees, including
96 engineering, architectural, and construction experts, fiscal agents, and attorneys, and to
97 fix their respective compensations;
- 98 (5) To execute contracts, leases, installment sale agreements, and other agreements and
99 instruments necessary or convenient in connection with the acquisition, construction,
100 addition, extension, improvement, equipping, operation, or maintenance of a project; and
101 any and all persons, firms, corporations, and Bulloch County are hereby authorized to
102 enter into contracts, leases, installment sale agreements, and other agreements or
103 instruments with the authority upon such terms and for such purposes as they deem
104 advisable and as they are authorized by law;
- 105 (6) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,
106 and dispose of projects;
- 107 (7) To pay the costs of the project with the proceeds of revenue bonds or other
108 obligations issued by the authority or from any grant or contribution from the United
109 States or any agency or instrumentality thereof or from this state or any agency or any
110 instrumentality or other political subdivision thereof or from any other source
111 whatsoever;
- 112 (8) To accept loans or grants of money, materials, or property of any kind from the
113 United States or any agency or instrumentality thereof, upon such terms and conditions
114 as the United States or such agency or instrumentality may require;
- 115 (9) To accept loans or grants of money, materials, or property of any kind from this state
116 or any agency or instrumentality or political subdivision or municipal corporation thereof,
117 upon such terms and conditions as this state or such agency or instrumentality or political
118 subdivision or municipal corporation may require;
- 119 (10) To borrow money for any of its corporate purposes, to issue revenue bonds, and to
120 provide for the payment of the same and for the rights of the holders thereof;
- 121 (11) To exercise any power usually possessed by private corporations performing similar
122 functions, including the power to incur short-term debt and to approve, execute, and
123 deliver appropriate evidence of any such indebtedness;
- 124 (12) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
125 manner in which its business is transacted; and
- 126 (13) To do all things necessary or convenient to carry out the powers expressly given in
127 this Act.

128 **SECTION 5.**

129 Revenue bonds.

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

140 **SECTION 6.**

141 Revenue bonds; conditions precedent to issuance.

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

151 **SECTION 7.**

152 Credit not pledged.

153 Revenue bonds of the authority shall not be deemed to constitute a debt of Bulloch County
154 or the State of Georgia, nor a pledge of the faith and credit of this state or such county, but
155 such revenue bonds shall be payable solely from the fund hereinafter provided for. The
156 issuance of such revenue bonds shall not directly, indirectly, or contingently obligate this
157 state or such county to levy or pledge any form of taxation whatsoever for payment of such
158 revenue bonds or to make any appropriation for their payment, and all such revenue bonds
159 shall contain recitals on their face covering substantially the foregoing provisions of this

160 section. Notwithstanding the foregoing provisions, this Act shall not affect the ability of the
161 authority and any political subdivision to enter into an intergovernmental contract pursuant
162 to which the political subdivision agrees to pay amounts sufficient to pay operating charges
163 and other costs of the authority or any project including, without limitation, the principal of
164 and interest on revenue bonds in consideration for services or facilities of the authority.

165 **SECTION 8.**

166 Trust indenture as security.

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

176 **SECTION 9.**

177 Trust indenture as security, remedies of bondholders.

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

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SECTION 10.

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Trust indenture as security; validation.

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

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SECTION 11.

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To whom proceeds of bonds shall be paid.

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

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SECTION 12.

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Sinking fund.

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

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

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

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

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

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

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

230 **SECTION 13.**

231 Venue and jurisdiction.

232 Any action to protect or enforce any rights under the provisions of this Act or any suit or
233 action against such authority shall be brought in the Superior Court of Bulloch County, and
234 any action pertaining to validation of any revenue bonds issued under the provisions of this
235 Act shall likewise be brought in said court which shall have exclusive, original jurisdiction
236 of such actions.

237 **SECTION 14.**

238 Interest of bondholders protected.

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

248 **SECTION 15.**

249 Money received considered trust funds.

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

253 **SECTION 16.**

254 Purpose of the authority; reversion upon dissolution.

255 (a) The authority is created for the purpose of promoting the public good and general welfare
256 of the citizens of the Bulloch County, and financing and providing facilities, equipment, and
257 services within the county, for sale to, lease or sublease to, ownership, or operation by the
258 county as otherwise authorized by law.

259 (b) Upon the dissolution of the authority, all assets owned by the authority shall become the
260 property of the county.

261 **SECTION 17.**

262 Rates, charges, and revenues; use.

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

269 **SECTION 18.**

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

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

274 **SECTION 19.**

275 Tort immunity.

276 To the extent permitted by law, the authority shall have the same immunity and exemption
277 from liability for torts and negligence as Bulloch County; and the officers, agents, and
278 employees of the authority when in the performance of the work of the authority shall have
279 the same immunity and exemption from liability for torts and negligence as the officers,
280 agents, and employees of Bulloch County when in the performance of their public duties or
281 work of the county.

282 **SECTION 20.**

283 Tax exemption.

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

288 **SECTION 21.**

289 Effect on other governments.

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

293 **SECTION 22.**

294 Liberal construction of Act.

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

297 **SECTION 23.**

298 Severability; effect of partial invalidity of Act.

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

302 **SECTION 24.**

303 Effective date.

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

306 **SECTION 25.**

307 General repealer.

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