

House Bill 1715 (AS PASSED HOUSE AND SENATE)

By: Representatives Hembree of the 46th, Maxwell of the 27th, Brooks of the 47th, Bruce of the 45th, Wix of the 33rd, Post 1, and others

A BILL TO BE ENTITLED
AN ACT

1 To create the Western Area Regional Radio System Authority; to provide a short title; to
2 provide a declaration of need; to provide for the membership, appointment of members, and
3 terms of the members; to provide for a quorum; to define certain terms; to provide for the
4 powers of the authority; to provide that indebtedness of the authority shall not constitute debt
5 to the establishing local governments; to provide for venue of actions relating to any
6 provisions of this Act; to provide for the purpose of the authority; to provide that the
7 authority may establish rates and collect revenues for services; to provide for rules,
8 regulations, and policies; to provide for tort immunity; to provide for exemptions from
9 certain taxes; to provide for an effective date; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Short title.

14 This Act shall be known and may be cited as the "Western Area Regional Radio System
15 Authority Act."

16 **SECTION 2.**

17 Declaration of need.

18 It is declared that there exists a need for a Western Area Regional Radio System Authority
19 to function without profit in developing and promoting for the public good certain
20 communication facilities and services in order to provide an interoperable, high quality, and
21 reliable and uninterrupted communication signal for public safety and public services and for
22 the other purposes expressed in this Act.

SECTION 3.**Western Area Regional Radio System Authority.**

(a) There is hereby created a public body corporate and politic to be known as the "Western Area Regional Radio System Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style, and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity. The authority shall have perpetual existence.

(b) The authority shall consist of eight members who shall be appointed by the establishing local governments in the following manner: (1) Carroll County, Georgia, shall appoint two members to the authority, (2) the City of Douglasville, Georgia, shall appoint two members to the authority, (3) Haralson County, Georgia, shall appoint two members to the authority, and (4) Heard County, Georgia, shall appoint two members to the authority. Elected officials of the establishing local governments may be appointed as members of the authority. With respect to the initial appointments by the establishing local governments, the appointments shall be in the following manner: (1) Carroll County, Georgia, shall appoint its first member to a term of one year and shall appoint its second member to a term of four years, (2) the City of Douglasville, Georgia, shall appoint its first member to a term of two years and shall appoint its second member to a term of three years, (3) Haralson County, Georgia, shall appoint the first member to a term of one year and shall appoint its second member to a term of three years, and (4) Heard County, Georgia, shall appoint its first member to a term of two years and shall appoint its second member to a term of four years. Thereafter, all appointments shall be made for terms of four years and until successors are appointed and qualified. Immediately after such appointments, the members of the authority shall enter upon their duties. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age, shall have been a resident of the jurisdiction of the establishing local government which appointed him or her for at least two years prior to the date of his or her appointment and shall continue such residency during his or her term of office, and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself.

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

(d) The members of the authority shall elect one of their number as chairperson and another as a vice chairperson. The chairperson shall preside over the regular and special meetings of the authority and shall not cast a vote in any proceeding unless necessary to cast a vote in the

event of a tie vote. In the event that the chairperson is not in attendance, the vice chairperson shall preside and that presiding member shall not cast a vote in any proceeding unless necessary to cast a vote in the event of a tie vote. The members of the authority shall also elect a secretary, and may also elect a treasurer, who need not be members of the authority. The secretary and treasurer shall not be the chairperson or vice chairperson. The secretary may also serve as treasurer. If either the secretary or the treasurer is not a member of the authority, such officer shall have no voting rights. Each of such officers shall serve for a period of one year and until their successors are duly elected and qualified.

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

SECTION 4.

Definitions.

As used in this Act, the term:

(1) "Authority" means the Western Area Regional Radio System Authority created by this Act.

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

(3) "County" means any county created under the Constitution or laws of this state.

(4) "Establishing local governments" shall mean the board of commissioners of Carroll County, Georgia, the mayor and council of the City of Douglasville, Georgia, the commissioner of Haralson County, Georgia, and the board of commissioners of Heard County, Georgia.

(5) "Local government" or "local governing authority" means any municipal corporation or county or any state or local authority, board, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of this state.

(6) "Obligation" means any indebtedness, including, without limitation, any note, lease, contract, or other evidence of indebtedness.

(7) "Project" means the acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension, renewal, replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential public purpose of providing facilities and services permitted by the obligation to meet radio communication needs and standards and to aid in the accomplishment of the purposes of the authority.

(6) "State" means the State of Georgia.

SECTION 5.

Powers.

The authority shall have the power:

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

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

(3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper, or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property or rights or easements therein or franchises necessary or convenient for its corporate purposes, to use the same so long as its corporate existence shall continue, to lease or make contracts with respect to the use of the same, or to dispose of the same in any manner it deems to the best advantage of the authority;

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

(5) To execute contracts, leases, installment sale agreements, and other agreements and instruments necessary or convenient in connection with the acquisition, construction, addition, extension, improvement, equipping, operation, or maintenance of a project; and any and all persons, firms and corporations, local governments, and any other political subdivision or municipality of the state located within the operational capacity of the authority are hereby authorized to enter into contracts, leases, installment sale agreements, and other agreements or instruments with the authority upon such terms and for such purposes as they deem advisable and as they are authorized by law;

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

3 (7) To pay the costs of the project with the proceeds of any grant or contribution from
4 the United States of America or any agency or instrumentality thereof or from the state
5 or any agency or instrumentality or other political subdivision thereof or from any other
6 source whatsoever;

7 (8) To finance projects and facilities of the authority for the furtherance of the purposes
8 of the authority within the geographic area over which the authority has operational
9 capability by loan, loan guarantee, grant, lease, or otherwise and to pay the cost of such
10 from any funds of the authority or from any contributions or loans by persons,
11 corporations, partnerships, whether limited or general, or other entities, all of which the
12 authority is authorized to receive, accept, and use;

13 (9) To sell or pledge any obligation acquired by it whenever it is determined by the
14 authority that the sale thereof is desirable;

15 (10) To accept loans and grants of money or materials or property of any kind from the
16 United States of America or any agency or instrumentality thereof, upon such terms and
17 conditions as the United States of America or such agency or instrumentality may
18 require;

19 (11) To accept loans and grants of money or materials or property of any kind from the
20 state or any agency or instrumentality or political subdivision thereof, upon such terms
21 and conditions as, the state or such agency or instrumentality or political subdivision may
22 require;

23 (12) To borrow money for any of its corporate purposes and to provide for the payment
24 of the same and for the rights of the holders thereof;

25 (13) To exercise any power granted by the laws of this state to public or private
26 corporations which is not in conflict with the public purpose of the authority, including
27 the power to incur short-term debt and to approve, execute, and deliver appropriate
28 evidence of any such indebtedness;

29 (14) To acquire by the exercise of the power of eminent domain any real property or
30 rights in property which it may deem necessary for its purposes under this Act pursuant
31 to the procedures set forth under the laws of this state and to purchase, exchange, sell,
32 lease, or otherwise acquire or dispose of any property or any rights or interests therein,
33 or for any facilities or activities incident thereto; and

34 (15) To do all things necessary or convenient to carry out the powers expressly given in
35 this Act.

SECTION 6.

Credit not pledged.

Obligations of the authority shall not be deemed to constitute a debt of the establishing local governments nor a pledge of the faith and credit of said establishing local governments. The issuance of such obligations shall not directly, indirectly, or contingently obligate said establishing local governments to levy or to pledge any form of taxation whatsoever for payment of such obligations or to make any appropriation for their payment, and all such obligations shall contain recitals on their face covering substantially the foregoing provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect the ability of the authority and any political subdivision or municipality to enter into an intergovernmental contract pursuant to which the political subdivision or municipality agrees to pay amounts sufficient to pay operating charges and other costs of the authority or any project including, without limitation, the principal of and interest on obligations in consideration for services or facilities of the authority.

SECTION 7.

Venue.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against the authority shall be brought in the Superior Court of Carroll County, Georgia.

SECTION 8.

Moneys received considered trust funds.

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

SECTION 9.

Purpose of the authority.

Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of providing for the development of a regional communication system for public safety and public service use to guarantee interoperability, high quality, and reliable and uninterrupted communication signals through facilities, equipment, and

1 services for the establishing local governments by contract, including other persons, entities,
2 and local governments who may hereinafter contract and agree for services from the
3 authority. The general purposes of the authority shall not restrict the authority from
4 developing and servicing any persons, entities, or local governments who may contract for
5 the authority to develop communication services or facilities, or both, in other areas where
6 operational capacity is deemed necessary or desirable.

7 **SECTION 10.**

8 Rates, charges and revenues; use.

9 The authority is hereby authorized to prescribe and fix rates and to revise same from time to
10 time and to collect revenues, tolls, fees, and charges for the services, facilities, and
11 commodities furnished, and in anticipation of the collection of the revenues, to incur
12 indebtedness as herein provided to finance, in whole or in part, the costs of the project.

13 **SECTION 11.**

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

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

18 **SECTION 12.**

19 Tort immunity.

20 To the extent permitted by law, the authority shall have the same immunity and exemption
21 from liability for torts and negligence as a political subdivision of the state; and the officers,
22 agents, and employees of the authority when in the performance of the work of the authority
23 shall have the same immunity and exemption from liability for torts and negligence as the
24 officers, agents, and employees of a political subdivision of the state when in the
25 performance of their public duties or work for a political subdivision of this state.

26 **SECTION 13.**

27 Tax-exempt status of authority.

28 The properties of the authority, both real and personal, are declared to be public properties
29 used for the benefit and welfare of the people of the state and not for purposes of private or

1 corporate benefit and income, and such properties and the authority shall be exempt from all
2 taxes and special assessments of any municipality, county, or the state or any political
3 subdivision thereof to the extent allowed by general law.

4 **SECTION 14.**

5 Effect on other governments.

6 This Act shall not and does not in any way take from the establishing local governments or
7 any political subdivision or municipality the authority to own, operate, and maintain public
8 facilities or to issue obligations.

9 **SECTION 15.**

10 Liberal construction of Act.

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

13 **SECTION 16.**

14 Effective date.

15 This Act shall become effective as of the earlier of August 1, 2004, or the adoption of a
16 resolution by the establishing local governments that makes initial appointments of members
17 to constitute a quorum of the authority.

18 **SECTION 17.**

19 Repealer.

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