Senate Bill 549

By: Senator Butterworth of the 50th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend an Act to create and establish the Rabun County Building Authority, approved April 1, 1994 (Ga. L. 1994, p. 4564), so as to authorize Rabun County or the Rabun County School District to lease or sell lands and buildings to the Authority; to authorize the Authority, Rabun County, and the Rabun County School District to enter into contracts and leases pertaining to uses of such facilities; to provide that no debt of Rabun County or the Rabun County School District shall be incurred by the exercise of any of the powers granted; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act to create and establish the Rabun County Building Authority, approved April 1, 1994 (Ga. L. 1994, p. 4564), is amended by revising Section 1 as follows:

"SECTION 1.

Rabun County Building Authority created. There is created a public body corporate and politic to be known as the Rabun County Building Authority, herein called 'the Authority,' which shall be an instrumentality and a public corporation of the State of Georgia, the purpose of which shall be to acquire, construct, and equip self-liquidating projects, including, but not limited to, buildings, sanitary and surface water sewers, streets, roads and public facilities of every nature, type and character, for use by Rabun County or the Rabun County School District for their governmental, proprietary, public, administrative and educational functions and Rabun County and the Rabun County School District are granted the right and power by proper resolution of their governing authorities to sell or lease to the Authority lands and buildings owned by them. The Authority shall not be a state institution, nor a department or agency of the state, but shall be an instrumentality of the state, a mere creation of the state, having distinct corporate entity and being exempt from the provisions of Article 2 of Chapter 17 of Title 50 of the O.C.G.A., the 'Georgia

State Financing and Investment Commission Act.' The Authority shall have its principal office in Rabun County, and its legal situs or residence for the purposes of this chapter shall be Rabun County."

SECTION 2.

Said Act is further amended by revising parargraph (2) of Section 3 as follows:

"The word 'project' shall mean land, buildings, facilities, equipment, and real property and personal property of every kind and character necessary or convenient for the efficient operation of Rabun County or the Rabun County School District, or any other political subdivision or municipality of the State of Georgia located within Rabun County."

SECTION 3.

Said Act is further amended by revising paragraphs (3) and (4) of Section 4 as follows:

"(3) To make and execute with public and private persons and corporations contracts, leases, rental agreements, and other instruments relating to its projects and incident to the exercise of the powers of the Authority, including contracts for constructing, renting, and leasing of its projects for the use of Rabun County or the Rabun County School District; and, without limiting the generality of the foregoing, authority is specifically granted to Rabun County and the Rabun County School District to enter into lease contracts and related agreements for the use of any structure, building, or facility or a combination of any two or more structures, buildings, or facilities of the Authority for a term not exceeding 50 years; and Rabun County and the Rabun County School District may enter into lease contracts and related agreements for the use of any structure, building, or facility, or a combination of the two or more structures, buildings, or facilities of the Authority for a term not exceeding 50 years upon a majority vote of its governing body and may obligate itself for the use of such property so leased and also obligate itself as part of the undertaking to pay debt service incurred in connection with such property, and to pay the cost of maintaining, repairing, and operating the property furnished by and leased from the Authority; and the sums agreed to be paid under the provisions of such lease contracts or related agreements may be pledged or assigned to secure the payment of revenue bonds issued hereunder;

(4) 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 of the State of Georgia applicable to the condemnation of property for public use, including the power to proceed as a condemning body under the provisions of Article 2 of Chapter 2 of Title 22 of the O.C.G.A., relating to proceedings before a special master, or by gift, grant, lease, or otherwise real property or rights and easements

therein and franchises and personal property necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue and to lease or make contracts with respect to the use or disposition of the same in any manner it deems to the best advantage of the Authority. Title to any such property shall be held by the Authority exclusively for the benefit of the public. The Authority shall be under no obligation to accept and pay for any property condemned as provided herein except from the funds provided therefore and, in any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action, or proceedings as may be just to the Authority and to the owners of the property to be condemned; and no property shall be acquired as provided herein upon which any lien or other encumbrance exists, unless at the time such property is so acquired a sufficient sum of money shall be deposited in trust to pay and redeem the amount of such lien or encumbrance. If the Authority shall deem it expedient to construct any project on lands which are subject to the control of Rabun County or the Rabun County School District, the governing authority of Rabun County or the Rabun County School District, whichever is applicable, is authorized to convey such lands to the Authority for such consideration, not exceeding reasonable value, as may be agreed upon by the Authority, as Grantee, and by such governing authority, on behalf of Rabun County or the Rabun County School District, as Grantor, taking into consideration the public benefit to be derived from such conveyance."

SECTION 4.

Said Act is further amended by revising Section 5 as follows:

"SECTION 5.

Credit not pledged and debt not created by bonds. Revenue bonds issued under the provisions of this Act shall not constitute a debt or a pledge of the faith and credit of the State of Georgia, Rabun County, or the Rabun County School District; but such bonds shall be payable from the rentals, revenue, earnings, and funds of the Authority as provided in the resolution or trust agreement or indenture authorizing the issuance and securing the payment of such bonds; and the issuance of such bonds shall not directly, indirectly, or contingently obligate the state, county, or such school district to levy or pledge any form of taxation whatever for the payment thereof. No holder of any bond or receiver or trustee in connection with therewith shall have the right to enforce the payment thereof against any property of the state or of such county or school district nor shall any such bond constitute a charge, lien, or encumberance, legal or equitable, upon any such property. All such bonds shall contain on their face a recital setting forth substantially the foregoing provisions of this section. However, such county or school district may obligate itself to

pay the amounts required under any contract entered into with the Authority from funds received from taxes to be levied and collected for that purpose to the extent necessary to pay the obligations contractually incurred under this section, and from any other source; and the obligation to make such payments shall constitute a general obligation and a pledge of the full faith and credit of the obligor but shall not constitute a debt of the obligor under the meaning of the Constitution of the State of Georgia, Article IX, Section V, Paragraph I; and, when such obligation is made to make such payments from taxes to be levied for that purpose, then the obligation shall be mandatory to levy and collect such taxes from year to year in an amount sufficient to fulfill and fully comply with the terms of such obligation.″

SECTION 5.

This Act shall become effective on the first day of the month following the month in which it is approved by the Governor or becomes law without such approval.

SECTION 6.

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