

House Bill 554 (AS PASSED HOUSE AND SENATE)

By: Representative Austin of the 10th

A BILL TO BE ENTITLED
AN ACT

1 To create and establish an airport authority for Habersham County; to declare the need for
2 an airport authority; to designate the name of the authority; to declare the purposes and
3 objectives of this Act; to define certain terms; to provide for the membership of the authority;
4 to provide for the terms of office of the authority members; to provide for the election of
5 officers, quorum, bylaws, procedures, and meetings; to provide for compensation of
6 members; to provide for the filling of vacancies; to provide for removal of members; to
7 provide for the appointment and compensation of an executive director, treasurer, and other
8 administrative officers and employees of the authority; to provide that no member, officer,
9 or employee of the authority shall have any financial dealings with the authority; to provide
10 that any member, officer, or employee having financial dealings with the authority shall be
11 subject to removal; to provide for the powers of such authority; to define the types of activity
12 in which the authority is prohibited from engaging and otherwise to restrict the powers of the
13 authority; to provide for the execution of contracts, leases, and other legal documents; to
14 provide for the location of such authority; to provide for the issuance and validation of
15 revenue bonds; to provide that the property of the authority shall be deemed to be public
16 property; to provide for the transfer of airports and related facilities from the county to the
17 authority; to provide that airports acquired by the authority shall be subject to the control of
18 the authority; to provide that the powers of the authority shall be limited to airports; to
19 provide that the funds of the authority shall be used only for airports; to provide for the
20 keeping of books and accounts; to provide for the use of revenues; to provide for the use of
21 appropriations; to provide for maintenance of roads, taxiways, and runways; to provide for
22 immunity from liability; to provide for exemption from taxation; to provide for rights of
23 personnel; to provide for dissolution; to provide for lease of certain lands; to provide for
24 service of process; to provide for severability; to repeal conflicting laws; and for other
25 purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Creation of authority.

There is created the Habersham County Airport Authority which is referred to in this Act as the "authority." The authority shall be an instrumentality and political subdivision of the State of Georgia and a public corporation. The authority may exercise, subject to approval of the governing authority of Habersham County, the powers set out in this Act with respect to any land located within Habersham County or land contiguous to Habersham County which is, in such case, owned by Habersham County or the authority and is used for airport purposes as provided in this Act.

SECTION 2.

Determination of need for the authority.

The General Assembly determines and declares that there is a present and projected rapid growth in the commercial and private air traffic in Habersham County. There is the need for adequate airports safely and efficiently to serve the air transportation needs of this state and Habersham County through its metropolitan areas, the need to eliminate airport hazards, the need to raise large amounts of capital for the establishment, operation, and maintenance of present and future airports, and the need to coordinate the operation of various airports within certain metropolitan areas of the state. The General Assembly further determines and declares that the establishment of an authority is necessary and essential to ensure the welfare, safety, and convenience of citizens of the region and the entire state and to ensure the proper economic development of the region and the entire state.

SECTION 3.

Declaration of purposes.

The purposes and objectives of this Act and the authority created by this Act shall be to meet the needs and requirements recognized in Section 2 of this Act through the establishment, maintenance, and operation of a unified and coordinated airport system in Habersham County; to ensure the orderly and proper use and growth of the public airport; to ensure that the maximum public benefit is obtained from the public airport that is presently in existence and future airports; to ensure proper planning and establishment of airports needed in the future; to ensure the maximum participation of this region and state in national and international programs of air transportation; and to promote public transportation and

58 commerce, all to the end of providing the most effective and economical use of public
59 airports for the public welfare, safety, and convenience.

60 **SECTION 4.**

61 Definitions.

62 As used in this Act, unless the context in which they are used requires otherwise, the term:

63 (1) "Airport" means any area of land or structure within the authority's jurisdiction as set
64 out in Section 1 of this Act, which is or has been used or which the authority may plan
65 to use for the landing and taking off of commercial, private, and military aircraft,
66 including helicopters; all buildings, equipment, facilities, or other property and
67 improvements of any kind or nature located within the bounds of any such land area or
68 structure which are or have been used or which the authority may plan to use for terminal
69 facilities; all facilities of any type for the accommodation of passengers, maintenance,
70 servicing, and operation of aircraft, business offices and facilities of private businesses
71 and governmental agencies, and the parking of automobiles; and all other activities which
72 are or have been carried on or which may be necessary or convenient in conjunction with
73 the landing and taking off of commercial, private, and military aircraft including all land
74 originally acquired by Habersham County for the establishment of a county airport, any
75 land to be deeded to Habersham County for airport use, including, without limitation,
76 aviation easements and other real or personal property.

77 (2) "Airport hazard" means any structure, terrain, or object of natural growth which
78 obstructs or impedes the airspace required for the flight, landing, or taking off of aircraft
79 to or from an airport or any other thing that is hazardous to the flight, landing, or taking
80 off of aircraft to or from an airport.

81 (3) "County" means Habersham County, Georgia.

82 (4) "Revenue Bond Law" means the provisions of Article 3 of Chapter 82 of Title 36
83 of the O.C.G.A., as now or hereafter amended.

84 **SECTION 5.**

85 Members of the authority; qualifications.

86 The authority shall be composed of five members who shall be appointed by the governing
87 authority of Habersham County. Members of the authority shall possess general knowledge
88 of or experience in general aviation or airport operations matters.

SECTION 6.

Initial terms and members.

The initial members of the authority and their respective terms shall be as follows:

Dick Sergeant	Two years
Robert Ginn	Four years
Jack Fulbright	Three years
Hubert Lovell	Two years
David Stovall	Three years

Upon expiration of each of the member's initial terms, future terms shall be for four years each.

SECTION 7.

Election of officers, quorum, bylaws, procedures, and meetings.

After the appointment of the initial members, the full membership of the authority shall meet as soon as practicable and shall elect one of its members as chairperson and one as vice chairperson, each of whom shall continue as voting members in such positions for the succeeding year and until their successors are elected. Thereafter, a chairperson and vice chairperson shall be elected in the same manner each year to serve for the succeeding year and until their successors are elected. The chairperson shall preside at meetings of the authority and the vice chairperson shall preside in his or her absence, and they shall have such other powers, duties, and responsibilities as are set out elsewhere in this Act and in the bylaws of the authority. The authority shall also designate a secretary to keep the minutes and records of the authority. A majority of the members of the authority shall constitute a quorum. A majority of the quorum may exercise any and all powers of the authority. The authority shall, as soon as practicable, adopt its own bylaws, rules of procedure, and rules of conduct of its business. The authority shall meet at least once a month and at such other times as it may deem necessary.

SECTION 8.

Compensation of members.

The members shall receive no compensation but shall be reimbursed from the funds of the authority for reasonable and necessary expenses incurred in pursuing the business of the authority.

SECTION 9.

Vacancies in authority.

Should an appointed member vacate his or her office by resignation, death, removal, or for any other reason, the governing authority of the county shall, as soon as practicable, appoint another member as a member of the authority to complete the term of the vacating member. Until such time as a new member is appointed, the total number of members of the authority for the purposes of determining a quorum shall not include the vacating member.

SECTION 10.

Removal of members.

Any member may be removed from office for good cause affecting his or her ability to perform his or her duties as a member, for misfeasance, malfeasance, or nonfeasance in office, or for violating the conflicts of interest provisions of this Act by vote of a majority of the governing authority of the county, but only after a public hearing at which such member is given the right to represent evidence on his or her own behalf and only upon a finding by a majority of the governing authority of the county that good cause for removal affecting the member's ability to perform his or her duties as a member exists, that he or she was guilty of misfeasance, malfeasance, or nonfeasance in office, or that he or she violated the conflicts of interest provisions of this Act.

SECTION 11.Executive director, treasurer, and other administrative
officers and employees.

The authority may, subject to approval by the governing authority of the county, appoint and fix the compensation of an executive director under such terms and conditions as it deems appropriate. The executive director shall be the chief executive and operating officer of the authority. He or she shall have had experience as a business executive, preferably in connection with the field of aviation. Under the supervision of the authority and the governing authority of the county, the executive director shall be responsible for the operation, management, and promotion of all activities with which the authority is charged under this Act, together with such other duties as may be prescribed by the authority, and he or she shall have such powers as are necessarily incident to the performance of his or her duties and such other powers as may be granted by the authority and the governing authority of the county. Additionally, the authority may, subject to approval by the governing

authority of the county, in a like manner appoint and fix the compensation of a treasurer who shall have custody of all moneys, funds, notes, bonds, and other securities as the authority may prescribe. The authority may also, subject to approval by the governing authority of the county, authorize and employ such other administrative officers and employees under such terms and conditions as the authority shall consider necessary and appropriate to effectuate its purposes under this Act.

SECTION 12.

Conflicts of interest.

No member, officer, or employee of the authority shall have a financial interest, direct or indirect, in any contract with the authority or be financially interested, directly or indirectly, in the sale to the authority of any lands, material, supplies, or services, except on behalf of the authority as a member, officer, or employee. Any violation of the provisions of this section by a member of this authority shall be grounds for removal pursuant to Section 10 of this Act. Any violation of the provisions of this section by the executive director, any officer, or any employee of the authority shall be grounds for removal by the authority.

SECTION 13.

Powers of authority.

The authority shall possess, subject to approval by the governing authority of the county and those conditions and limitations set out elsewhere in this Act, all the powers necessary or convenient for it to accomplish the purposes of this Act, including the following specific powers, which shall not be construed as a limitation upon the general or other specific powers conferred in this Act:

- (1) To adopt a seal to be used for the authentication of legal documents, obligations, contracts, and other instruments and to alter same at the pleasure of the authority;
- (2) To acquire by purchase, lease, gift, or otherwise and to hold, lease, sell, use, and dispose of real and personal property of every kind and character or any interest therein;
- (3) To request that the county exercise the power of eminent domain to acquire any private real property or any rights or interests therein, including any easements, as necessary or convenient for the accomplishment of the purposes of this Act, including the elimination of airport hazards, in accordance with the provisions of any and all existing laws applicable to the exercise of such power including, without limitation, the authority provided for in Code Section 6-3-22 of the O.C.G.A. The authority shall pay for any property condemned under this power from funds of the authority and in proceedings to

condemn pursuant to this section. The court having jurisdiction of the suit, action, or proceedings may enter such orders regarding the payment for such property or interest therein as may be fair and just to the county, the authority, and to the owners of the property being condemned. Any such procedure shall suggest the method of payment to persons who own or have an interest in the property acquired by the authority;

(4) To appoint, select, and contract for the services of engineers, architects, building contractors, accountants, and other fiscal agents, attorneys, and such other persons, firms, or corporations as are necessary to accomplish the purposes of this Act for such fees or compensation and under such terms and conditions as it deems appropriate;

(5) To plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, and lease all airports which shall come under the control of the authority under the provisions of this Act or which it may acquire or plan to acquire; to regulate, protect, and police such airports and all related activities and facilities; to enter into any contracts, leases, or other agreements, promulgate any orders, set any tolls, fees, or other charges for the use of property or services of the authority and collect and use same as necessary to operate the airports under control of the authority; and to accomplish any purposes of this Act and make any purchases or sales necessary for such purposes;

(6) To contract with any persons, firms, or public or private corporations to supply goods, commodities, facilities, and services to the public, employees of the authority, and employees of air carriers and other commercial interests located at any airport under the control of the authority under such terms and conditions as it may prescribe including the power to grant exclusive rights, franchises, or concessions;

(7) To adopt and enforce reasonable rules and regulations for the orderly, safe, efficient, and sanitary operation of airports and related facilities under the control of the authority, to provide its own security force and peace officers with powers of arrest or to arrange for such security force or peace officers in connection with the municipality or county, and to prescribe reasonable penalties for the breach of any rule or regulation. All such rules, regulations, or orders shall become effective upon approval of the authority and after publication of a notice containing a substantive statement of the rule or regulation and the penalty for violation thereof in a newspaper of general circulation of the county in which rules and regulations are to be applied. The notice shall state that the breach of the rule or regulation will subject the violator to the penalty and shall state that the full text of all rules and regulations shall be maintained in the principal office of the authority where such text will be open to public inspection and perusal. All rules and regulations shall in fact be so maintained. Said rules and regulations, when promulgated as provided under this Act, shall be judicially recognized by and enforceable in the court of any

municipality or the county in which airports under the control of the authority are located and having jurisdiction over the place where any violation occurs;

(8) To provide fire protection and crash and rescue services or to arrange for such services in connection with any federal, state, municipal, or county agency or any private firm in the business of providing such services;

(9) To make application, directly or indirectly, to any federal, state, county, or municipal government or agency or to any other source, public or private, for loans, grants, guarantees, or other financial assistance in aid of airports under the control of the authority and to accept and use such loans, grants, guarantees, or other financial assistance upon such terms and conditions as are prescribed by the federal, state, county, or municipal government or agency or other source;

(10) To enter into agreements with the state, any state agency, county, municipality, or the federal government or any agency thereof to use in the performance of the functions of the authority, and facilities or services of the state or such agency, county, municipality, or the federal government or any agency thereof in order to accomplish the purpose as set forth in this Act;

(11) To borrow money to accomplish any purposes and execute evidences of indebtedness therefor and secure such indebtedness in such manner as the authority may provide by resolution authorizing such indebtedness to be incurred; provided, however, that the authority shall not pledge for the payment of such indebtedness revenue pledged for the payment of any other indebtedness then outstanding or encumber property in violation of the terms of any existing contract, agreement, or trust indenture securing existing indebtedness;

(12) To issue negotiable bonds, including revenue and refunding bonds, under such terms and conditions as it deems appropriate and to provide for the payment of same and for the rights of the holders therefor;

(13) To enter into any financial arrangements whatsoever necessary to accomplish the purposes of this Act not prohibited by this Act or by the laws or Constitution of the State of Georgia;

(14) To sell, lease, or otherwise dispose of surplus personal property and to sell, lease, or otherwise dispose of land and any improvements thereon acquired by the authority pursuant to law which the authority may determine is no longer required to accomplish the purposes of this Act, including property which is suitable for industrial development. Any such property may be sold, leased, or otherwise disposed of upon such terms and conditions as may be provided by resolution of the authority. The proceeds of any such sale may be used by the authority to accomplish any of the purposes of this Act;

(15) To determine what usage may be made of airports subject to the control of the authority, including the power to determine what classes of aircraft may use particular airports in order to derive the maximum public benefit from all airports;

(16) To exercise each and every power that any municipality or any county could exercise, under laws existing at the time this Act becomes law, over airports owned or operated by any municipality or any county which subsequently comes under the control of the authority under the provisions of this Act just as if the authority were the municipality or the county that previously owned or operated such airport and with regard to any future airport or airports not existing at the time this Act becomes law, the authority may exercise each and every power that the municipality or county could have exercised under this Act had the authority acquired the ownership or operation of any such airport or airports just as if the authority were the municipality or county;

(17) To enter into contracts, leases, or other agreements with federally certificated air carriers, other commercial air carriers, and other commercial users of the authority's airports for the use of such airports under such terms and conditions as the authority deems appropriate and for such charges, rentals, and fees as the authority deems appropriate under the circumstances;

(18) To enter into such agreement with any municipality or county presently operating airports of which the authority may subsequently assume control with respect to the manner of transfer of airport employees from any municipality or any county to the authority as the authority deems necessary and appropriate under the circumstances;

(19) To establish a plan of civil service for officers and employees of the authority or to provide by resolution that such officers and employees of the authority shall be covered under any state, county, or municipal civil service plan which is available to such employees under the laws of this state or any county or municipality; and

(20) To establish a plan for retirement, disability, hospitalization, and death benefits for officers and employees of the authority or to provide by resolution that such officers and employees shall be covered under any state, county, or municipal plan available to them under the laws of this state or any county or municipality.

SECTION 14.

Execution of contracts, leases, obligations, agreements,
or other legal instruments.

Any and all contracts, leases, obligations, agreements, or other legal instruments of the authority shall be approved by resolution of the authority and shall be executed by those individuals designated in such resolution and, in the absence of such designation, by the

292 chairperson or vice chairperson. Nothing in this section shall prohibit general resolutions
293 authorizing the executive director or other officers, agents, or employees to execute such
294 contracts, leases, obligations, agreements, or other legal instruments as the authority may
295 prescribe; provided, however, that all such contracts, leases, obligations, agreements, or other
296 legal instruments shall be approved by the governing authority of the county.

297 **SECTION 15.**

298 Revenue bonds, "Revenue Bond Law" applicable.

299 The authority shall have the power and is authorized, at one time or from time to time as it
300 deems necessary to accomplish the purpose of this Act, to issue revenue bonds pursuant to
301 the "Revenue Bond Law," subject to approval by the governing authority of the county. The
302 authority is determined to be a municipality within the meaning of that law and is authorized
303 to utilize any and all procedures set out in this Act and to exercise any and all powers of a
304 municipality under such law. The members of the authority shall constitute the governing
305 body as that term is used in such law. Except as otherwise provided in this Act, nothing in
306 this section shall be construed so as to limit the power of the authority to issue any bonds
307 authorized pursuant to paragraph (13) of Section 13 of this Act, except as provided in such
308 law. The authority shall validate any bonds authorized in accordance with the "Revenue
309 Bond Law." For purposes of validation of bonds under the "Revenue Bond Law," the
310 authority shall be considered to be located in Habersham County. All revenue bonds issued
311 under the provisions of this Act are declared to be issued for an essential public and
312 governmental purpose and said bonds and the income therefrom shall be exempt from all
313 taxation within the state.

314 **SECTION 16.**

315 Property of authority deemed to be public property.

316 It is declared that all property of the authority held pursuant to the terms of this Act, whether
317 real or personal, tangible or intangible, and of any kind or nature and any income or revenue
318 therefrom is held for an essential public and governmental purpose and all such property is
319 deemed to be public property.

320 **SECTION 17.**

321 Transfer of airport and related facilities to authority; public necessity.

322 The authority shall by resolution, at such times as shall be deemed appropriate, determine
323 what public airports within its jurisdiction as set out in Section 1 of this Act are necessary
324 to accomplish the purposes of this Act and shall inform the governing authority of the county
325 of such determination and request that the governing authority convey by deed all of the right
326 and interest in real property and any other property making up such airports owned by
327 Habersham County to the authority for a proper consideration within such time as the
328 authority may prescribe, subject to the provisions of Section 19 of this Act. It is declared that
329 the conveyance of such property is necessary and essential in order to accomplish the
330 purposes of this Act so as to secure the public welfare, safety, and convenience.

331 **SECTION 18.**

332 Transfer of contracts to authority.

333 Upon conveyance of any airport to the authority pursuant to Section 17 of this Act, all
334 contracts, commitments, leases, and other obligations of Habersham County with respect to
335 such airport shall be transferred to the authority, and the authority shall stand in the place of
336 Habersham County for the purposes of such contracts, commitments, leases, or other
337 obligations, subject to the provisions of Section 19 of this Act.

338 **SECTION 19.**

339 Airport subject to control of authority.

340 Any airport acquired by the authority pursuant to this Act or acquired by the authority in any
341 legal manner, and any other property held by the authority, shall be under the control of the
342 authority, and the authority shall have the right to exercise any and all of the powers set out
343 in this Act in regard thereto.

344 **SECTION 20.**

345 Powers of authority limited to airports.

346 All of the powers, general and specific, granted to the authority pursuant to this Act shall be
347 exercised only in regard to airports and are subject to approval of the governing authority of
348 the county. The authority shall not have the power to plan, construct, finance, operate, or
349 maintain any facilities other than airports and related facilities; provided, however, that

350 nothing in this section shall be construed to prohibit the authority from cooperating with
351 other federal, state, county, or municipal governmental agencies or public corporations in
352 order to coordinate other types of facilities with airports under the control of the authority
353 or purchasing, selling, exchanging, or otherwise acquiring any property from or with such
354 agencies or corporations.

355 **SECTION 21.**

356 Funds of authority to be used only for airports.

357 The funds of the authority, from whatever source, shall be used only in support of airports
358 as defined in this Act, but nothing in this section shall prohibit the authority from making,
359 subject to approval by the governing authority of the county, any and all expenditures of any
360 kind or nature necessary to support such airports under the control of the authority.

361 **SECTION 22.**

362 Publication of financial report and budget.

363 The authority shall keep separate books and accounts showing receipts from all sources and
364 expenditures for all purposes and shall deposit all funds received by it, including
365 appropriations that may be made by the county, and all revenues and in a bank named as
366 depository of the authority.

367 **SECTION 23.**

368 Maintenance of roads, taxiways, and runways.

369 The county shall continue to maintain the roads, taxiways, and runways of the authority at
370 no cost to the authority. Such roads, taxiways, and runways shall be maintained accordingly
371 to meet minimum standards as set forth by the Federal Aviation Administration, this state,
372 and the county.

373 **SECTION 24.**

374 Revenues.

375 All fees, charges, tolls, rentals, or other revenues derived from the operation or lease of such
376 airports or landing fields shall be used by said authority to meet in whole or in part the
377 expenses of operation and maintenance of such airports or landing fields. In the event the
378 revenue from the operation or lease of such airports or landing fields exceeds the expenses

379 of operation and maintenance, such excess shall be used for further developments or
380 improvements on such airports or the equipment of such airports or landing fields and if not
381 so used may, at the discretion of the authority, be paid to the county.

382 **SECTION 25.**

383 Appropriated funds.

384 The authority shall have the control and expenditure of any funds that may be appropriated
385 to it by the county for the construction, development, maintenance, improvement, and
386 operation of airports or landing fields.

387 **SECTION 26.**

388 Immunity from liability.

389 The authority shall have the same immunity and exemption from liability from torts and
390 negligence as the state and the county, and members, officers, agents, and employees of the
391 authority while in performance of the work of the authority shall have the same immunity
392 and exemption from liability from torts and negligence as the officers, agents, and employees
393 of the state and the county when in performance of their public duties or work of the state or
394 the county.

395 **SECTION 27.**

396 Tax exemption of the authority.

397 It is found, determined, and declared that the creation of the authority and the carrying out
398 of its authorized purposes are in all respects for the benefit of the people of this state and
399 county and constitute a public purpose and that the authority will be performing an essential
400 governmental function in the exercise of the power conferred upon it by this Act. The
401 authority shall be required to pay no taxes or assessments upon any of the property acquired
402 by it or under its jurisdiction, control, possession, or supervision or upon its activities in the
403 operation or maintenance of the facilities erected, maintained, or acquired by it nor upon any
404 fees, rentals, or other charges for the use of such facilities or other income received by the
405 authority. It is covenanted with the holders from time to time of the bonds, notes, and other
406 obligations issued under this Act that the authority shall not be required to pay any taxes or
407 assessments imposed by the state or any of its counties, municipal corporations, political
408 subdivisions, or taxing districts on any property acquired by the authority or under its
409 jurisdiction, control, possession, or supervision or leased by it to others or upon its activities

410 in the operation or maintenance of any such property or on any income derived by the
411 authority in the form of fees, recording fees, rentals, charges, purchase price, installments,
412 or otherwise, and that the bonds, notes, and other obligations of the authority, their transfer,
413 and the income therefrom shall at all times be exempt from taxation within the state.

414 **SECTION 28.**

415 Dissolution of authority.

416 In the event of dissolution of the authority, all property, real and personal and tangible and
417 intangible, shall revert to and be the property of the county, subject to all rights and
418 encumbrances thereon, provided that the county, by acceptance thereof, shall fulfill all
419 obligations of the authority.

420 **SECTION 29.**

421 Principal office of authority; service of process.

422 The principal office of the authority shall be 1112 Airport Road, Cornelia, Georgia, 30531.
423 Service of process on the authority may be effectuated upon the executive director or other
424 officers of the authority as in the case of private corporations incorporated or domesticated
425 under the laws of this state.

426 **SECTION 30.**

427 Severability; should any portion of this Act be held invalid.

428 The terms and provisions of this Act are severable. Should any section, subdivision,
429 sentence, clause, or phrase of this Act, or the application thereof to any person or
430 circumstances for any reason be held by a court of competent jurisdiction to be invalid or
431 void, the validity of the remainder of this Act or the application of such provision to other
432 persons or circumstances shall not be affected thereby to the extent that any remaining
433 portion of the Act may reasonably be given effect without the invalid or void portion.

434 **SECTION 31.**

435 Cumulative with nonconflicting existing laws.

436 This Act shall not be construed so as to repeal any laws or parts thereof not directly in
437 conflict with this Act, and the provisions of this Act shall be cumulative with existing laws

438 on the subject or existing laws which authorize the doing of things authorized by this Act
439 unless they are in direct conflict with this Act.

440 **SECTION 32.**
441 General repealer.

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