

Senate Bill 304

By: Senator Kennedy of the 18th

A BILL TO BE ENTITLED
AN ACT

1 To create the Peach County Public Facilities Authority; to provide for the appointment of
2 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 "Peach County Public Facilities Authority
14 Act."

S. B. 304

- 1 -

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SECTION 2.

Peach County Public Facilities Authority.

17 (a) There is hereby created a public body corporate and politic to be known as the "Peach
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 five members who shall be appointed by the Board of
23 Commissioners of Peach County. All appointments shall be made for terms of two years and
24 until successors are appointed and qualified. Immediately after such appointments, the
25 members of the authority shall enter upon their duties. To be eligible for appointment as a
26 member of the authority, a person shall be at least 21 years of age and a resident of Peach
27 County, Georgia, for at least two years prior to the date of his or her appointment and shall
28 not have been convicted of a felony. Any member of the authority may be selected and
29 appointed to succeed himself or herself. A member may be removed from office by the
30 board of commissioners for failure to perform the appropriate duties of membership.

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

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

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

43 **SECTION 3.**

44 **Definitions.**

45 As used in this Act, the term:

46 (1) "Authority" means the Peach County Public Facilities Authority created by this Act.

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

56 (3) "County" means Peach County, Georgia.

57 (4) "Project" means all buildings, facilities, and equipment necessary or convenient for
58 the efficient operation of the county, or any municipality or local government authority
59 located within the county or any department, agency, division, or commission thereof
60 permitted by the Revenue Bond Law.

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

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

65 (7) "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 (8) "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, Peach County, the Peach County School District,
102 and any other political subdivision, local government authority, or municipal corporation
103 of the State of Georgia located in Peach County are hereby authorized to enter into
104 contracts, leases, installment sale agreements, and other agreements or instruments with
105 the authority upon such terms and for such purposes as they deem advisable and as they
106 are authorized by law;

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

109 (7) To pay the costs of the project with the proceeds of revenue bonds or other
110 obligations issued by the authority or from any grant or contribution from the United
111 States or any agency or instrumentality thereof or from this state or any agency or any
112 instrumentality or other political subdivision thereof or from any other source
113 whatsoever;

114 (8) To accept loans or grants of money, materials, or property of any kind from the
115 United States or any agency or instrumentality thereof, upon such terms and conditions
116 as the United States or such agency or instrumentality may require;

- 117 (9) To accept loans or grants of money, materials, or property of any kind from this state
118 or any agency or instrumentality or political subdivision or municipal corporation thereof,
119 upon such terms and conditions as this state or such agency or instrumentality or political
120 subdivision or municipal corporation may require;
- 121 (10) To borrow money for any of its corporate purposes, to issue revenue bonds, and to
122 provide for the payment of the same and for the rights of the holders thereof;
- 123 (11) To exercise any power usually possessed by private corporations performing similar
124 functions, including the power to incur short-term debt and to approve, execute, and
125 deliver appropriate evidence of any such indebtedness;
- 126 (12) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
127 manner in which its business is transacted; and
- 128 (13) To do all things necessary or convenient to carry out the powers expressly given in
129 this Act.

130 **SECTION 5.**

131 Revenue bonds.

132 The authority, or any authority or body which has or which may in the future succeed to the
133 powers, duties, and liabilities vested in the authority created by this Act, shall have power
134 and is authorized, pursuant to the Revenue Bond Law, to provide by resolution for the
135 issuance of revenue bonds of the authority for the purpose of paying all or any part of the
136 costs of a project and for the purpose of refunding revenue bonds or other obligations
137 previously issued; provided, however, that no such revenue bonds shall be issued to finance
138 a project for the Peach County School District or any other political subdivision, local
139 government authority, or municipal corporation of the state located within Peach County
140 other than the county without the approval of the board of commissioners. Revenue bonds

141 shall be undertaken, issued, priced, validated, sold, paid, redeemed, refunded, secured, and
142 replaced in accordance with the provisions of the Revenue Bond Law.

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SECTION 6.

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Revenue bonds; conditions precedent to issuance.

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

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SECTION 7.

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Credit not pledged.

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

164 and any political subdivision or municipal corporation to enter into an intergovernmental
165 contract pursuant to which the political subdivision or municipal corporation agrees to pay
166 amounts sufficient to pay operating charges and other costs of the authority or any project
167 including, without limitation, the principal of and interest on revenue bonds in consideration
168 for services or facilities of the authority.

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SECTION 8.

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Trust indenture as security.

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

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SECTION 9.

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Trust indenture as security, remedies of bondholders.

182 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the
183 extent that the rights given herein may be restricted by resolution passed before the issuance
184 of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,
185 mandamus, or other proceedings, protect and enforce any and all rights it may have under
186 the laws of the state, including specifically, but without limitation, the Revenue Bond Law,

187 or granted hereunder or under such resolution or trust indenture and may enforce and compel
188 performance of all duties required by this Act or by such resolution or trust indenture to be
189 performed by the authority or any officer thereof, including the fixing, charging, and
190 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and
191 services furnished.

192 **SECTION 10.**

193 Trust indenture as security; validation.

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

205 **SECTION 11.**

206 To whom proceeds of bonds shall be paid.

207 In the resolution providing for the issuance of revenue bonds or in the trust indenture, the
208 authority shall provide for the payment of the proceeds of the sale of the revenue bonds to
209 any officer or person who, or any agency, bank, or trust company which, shall act as trustee

210 of such funds and shall hold and apply the same to the purposes thereof, subject to such
211 regulations as this Act and such resolution or trust indenture may provide.

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SECTION 12.

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Sinking fund.

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

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

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

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

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

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

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

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SECTION 13.

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Venue and jurisdiction.

237 Any action to protect or enforce any rights under the provisions of this Act or any suit or
238 action against such authority shall be brought in the Superior Court of Peach County, and any
239 action pertaining to validation of any revenue bonds issued under the provisions of this Act
240 shall likewise be brought in said court which shall have exclusive, original jurisdiction of
241 such actions.

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SECTION 14.

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Interest of bondholders protected.

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

253 **SECTION 15.**

254 Money received considered trust funds.

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

258 **SECTION 16.**

259 Purpose of the authority.

260 The authority is created for the purpose of promoting the public good and general welfare
261 of the citizens of Peach County, and financing and providing facilities, equipment, and
262 services within the county, for sale to, lease or sublease to, ownership, or operation by any
263 public body or any private person, specifically including the county, the municipalities, or
264 local government authorities located within the county as otherwise authorized by law.

265 **SECTION 17.**

266 Rates, charges, and revenues; use.

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

273 **SECTION 18.**

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

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

278 **SECTION 19.**

279 Tort immunity.

280 To the extent permitted by law, the authority shall have the same immunity and exemption
281 from liability for torts and negligence as Peach County; and the officers, agents, and
282 employees of the authority when in the performance of the work of the authority shall have
283 the same immunity and exemption from liability for torts and negligence as the officers,
284 agents, and employees of Peach County when in the performance of their public duties or
285 work of the county.

286 **SECTION 20.**

287 Tax exemption.

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

292 **SECTION 21.**

293 Effect on other governments.

294 This Act shall not and does not in any way take from Peach County or any municipal
295 corporation or local government authority the authority to own, operate, and maintain public
296 facilities or to issue revenue bonds as provided by the Revenue Bond Law.

297 **SECTION 22.**

298 Liberal construction of Act.

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

301 **SECTION 23.**

302 Severability; effect of partial invalidity of Act.

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

306 **SECTION 24.**

307 Effective date.

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

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SECTION 25.

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General repealer.

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