

House Bill 1523

By: Representatives Cheokas of the 151st and Stinson of the 150th

A BILL TO BE ENTITLED
AN ACT

1 An Act to create the Sumter County Public Facilities Authority and to provide for the
2 appointment of members of the authority; to confer powers upon the authority; to authorize
3 and provide for the issuance of revenue bonds; to provide that credit is not pledged; to
4 provide for security, validation, and protection of revenue bonds; to provide bondholder
5 remedies; to fix and provide the venue and jurisdiction; to provide for proceeds as trust
6 funds; to provide for tort immunity; to provide for the tax statues of property and revenue
7 bonds of the authority; to provide for reversion of assets; to provide for construction and
8 severability; to provide a short title; to provide for definitions; to provide for related matters;
9 to repeal 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 "Sumter County Public Facilities Authority
14 Act."

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SECTION 2.

Sumter County Public Facilities Authority.

(a) There is hereby created a public body corporate and politic to be known as the "Sumter County Public Facilities Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style and title such 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 five members appointed by the Sumter County Board of Commissioners. The members of the board of commissioners may be appointed as members of the authority. With respect to the initial appointments, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all appointments shall be made for terms of three 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 be a resident of the county for at least two years prior to the date of his or her appointment, 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 members shall not be compensated for their services; 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 vice chairperson. The members of the authority shall also elect a secretary, who need not be a member of the authority, and may also elect a treasurer, who need not be a member of the authority. The secretary may also serve as treasurer. If the secretary and treasurer are

40 not members of the authority, such officers shall have no voting rights. Each such officer
41 shall serve for a period of one year or until his or her successor is duly elected and qualified.
42 (e) Three members of the authority shall constitute a quorum. No vacancy on the authority
43 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
44 of the authority.

45 SECTION 3.

46 Definitions.

47 As used in this Act, the term:

- 48 (1) "Authority" means the Sumter County Public Facilities Authority created by this 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 accounting, legal, plans and specifications and expenses necessary or incidental to
54 determining the feasibility or practicability of the project; administrative expenses; working
55 capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip,
56 operate, maintain or finance the project.
- 57 (3) "County" means Sumter County, Georgia.
- 58 (4) "Project" means all buildings, facilities and equipment necessary or convenient for the
59 efficient operation of the county or any department, agency division or commission thereof;
60 the Sumter County School System; any municipal corporation within the county; and any
61 "undertaking" permitted by the Revenue Bond Law.
- 62 (5) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the
63 "Revenue Bond Law," or any other similar law hereinafter enacted.
- 64 (6) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

65 (7) "Self-liquidating" means any project which the revenues and earnings to be derived by
66 the authority therefrom, including, but not limited to, any contractual payments with
67 governmental or private entities, and all properties used, leased, and sold in connection
68 therewith, together with any grants and any other available funds, will be sufficient to pay
69 the costs of operating, maintaining and repairing the project and to pay the principal and
70 interest on the revenue bonds or other obligations which may be issued for the purpose of
71 paying the 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, construct, add to, extend, improve, equip, operate, maintain, lease and
81 dispose of projects;

82 (4) To execute contracts, leases, installment sale agreements and other agreements and
83 instruments necessary or convenient in connection with the acquisition, construction,
84 addition, extension, improvement, equipping, operation, maintenance, disposition or
85 financing of a project;

86 (5) To appoint, select and employ officers, agents and employees, including, but not
87 limited to, engineering architectural and construction experts, fiscal agents and attorneys,
88 and fix their respective compensation;

- 89 (6) To pay the costs of the project with the proceeds of revenue bonds, notes or other
90 forms of obligations issued by the authority or from any grant or contribution from the
91 United States of America or any agency or instrumentality thereof or from the state or any
92 agency, instrumentality, municipality or political subdivision thereof or from any other
93 source whatsoever;
- 94 (7) To pledge to the payment of revenue bonds, notes and other forms of obligations issued
95 by the authority any and all revenues and properties of the authority, both real and
96 personal;
- 97 (8) To accept loans or grants of money or materials or property of any kind from the
98 United States of America or any agency or instrumentality thereof, upon such terms and
99 conditions as the United States of America or such agency or instrumentality may require;
- 100 (9) To accept loans or grants of money or materials or property of any kind from the state
101 or any agency, instrumentality, municipality or political subdivision thereof, upon such
102 terms and conditions as the state or such agency, instrumentality, municipality or political
103 subdivision may require;
- 104 (10) To borrow money for any of its corporate purposes and to issue or execute revenue
105 bonds, notes and other forms of obligations, deeds to secure debt, security agreements and
106 such other instruments as may be necessary or convenient to evidence and secure such
107 borrowing;
- 108 (11) To adopt, alter or repeal its own bylaws, rules and regulations governing the manner
109 in which its business is transacted;
- 110 (12) To prescribe rules, regulations, service policies and procedures for the operation of
111 any project;
- 112 (13) To exercise any power usually possessed by private corporations performing similar
113 functions; and
- 114 (14) To do all things necessary or convenient to carry out the powers expressly given in
115 this Act.

116 **SECTION 5.**
117 Revenue Bonds.

118 The authority shall have power and is hereby authorized to provide by resolution for the
119 issuance of revenue bonds for the purpose of paying all or any part of the costs of the project
120 and for the purpose of refunding revenue bonds or other obligations previously issued. The
121 principal of and interest on such revenue bonds shall be payable solely from the revenues and
122 properties pledged to the payment of such revenue bonds. The revenue bonds issued by the
123 authority shall contain such terms as the authority shall determine are in the best interest of
124 the authority; provided, however, no revenue bonds shall have a maturity exceeding 40 years.

125 **SECTION 6.**
126 Same; Signatures; Seal.

127 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
128 vice chairperson of the authority and the attesting manual or facsimile signature of the
129 secretary or secretary-treasurer of the authority, and the official seal of the authority shall be
130 impressed or imprinted thereon. Any revenue bonds may bear the manual or facsimile
131 signature of such persons as at the actual time of the execution of such revenue bonds shall
132 be duly authorized or hold the proper office, although at the date of issuance of such revenue
133 bonds such person may not have been so authorized or shall not have held such office. In
134 the event any officer whose signature shall appear on any revenue bond shall cease to be such
135 officer before the delivery of such revenue bond, such signature shall nevertheless be valid
136 and sufficient for all purposes, the same as if that person had remained in office until such
137 delivery.

138 **SECTION 7.**

139 Same; Negotiability; Exemption from Taxation.

140 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
141 of negotiable instruments under the laws of the state. As provided by general law, all
142 revenue bonds, their transfer and the income therefrom shall be exempt from all taxation
143 within the state.

144 **SECTION 8.**

145 Same; Conditions Precedent to Issuance.

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

154 **SECTION 9.**

155 Same; Credit not Pledged.

156 Revenue bonds shall not be deemed to constitute a debt of the state or any political
157 subdivision or municipal corporation of the state nor a pledge of the faith and credit of the
158 state or any political subdivision or municipal corporation of the state. Revenue bonds shall
159 be payable solely from the revenues and properties pledged to the payment of such revenue

160 bonds. The issuance of revenue bonds shall not directly, indirectly or contingently obligate
161 the state or any political subdivision or municipal corporation of the state to levy or to pledge
162 any form of taxation whatsoever for the payment of such revenue bonds or to make any
163 appropriation for their payment. All revenue bonds shall contain recitals on their face
164 covering substantially the foregoing provisions of this section. Notwithstanding the
165 foregoing provisions, this Act shall not affect the ability of the authority and a political
166 subdivision or municipal corporation of the state from entering into an intergovernmental
167 contract pursuant to which the political subdivision or municipal corporation agrees to pay
168 amounts sufficient to pay operating charges and other costs of the authority or any project
169 including, without limitation, the principal of and interest on revenue bonds, in consideration
170 for services or facilities of the authority.

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SECTION 10.

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Same; Trust Indenture as Security.

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

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SECTION 11.

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Same; Remedies of Bondholders.

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

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SECTION 12.

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Same; Validation.

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

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SECTION 13.

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Same; Interest of Bondholders Protected.

207 While any of the revenue bonds issued by the authority remain outstanding, the powers,
208 duties or existence of the authority or its officers, employees or agents, shall not be
209 diminished or impaired in any manner that will affect adversely the interests and rights of the
210 holders of such revenue bonds, and no other entity, department, agency or authority will be
211 created which will compete with the authority to such an extent as to affect adversely the
212 interest and rights of the holders of such revenue bonds. The provisions of this Act shall be
213 for the benefit of the authority and the holders of any such revenue bonds, and upon the
214 issuance of such revenue bonds under the provisions hereof, shall constitute a contract with
215 the holders of such revenue bonds.

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SECTION 14.

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Venue and Jurisdiction.

218 Any action to protect or enforce any rights under the provisions of this Act or any suit or
219 action against such authority shall be brought in the Superior Court of Sumter County,
220 Georgia, and any action pertaining to validation of any revenue bonds issued under the
221 provisions of this Act shall likewise be brought in such court, which shall have exclusive,
222 original jurisdiction of such actions.

223 **SECTION 15.**

224 Moneys Received Considered Trust Funds.

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

228 **SECTION 16.**

229 Purpose of the Authority; Scope of Operations.

230 Without limiting the generality of any provision of this Act, the general purpose of the
231 authority is declared to be that of providing public buildings, facilities, equipment and
232 services for the citizens in the county. The scope of operations of the authority shall be
233 limited to the county.

234 **SECTION 17.**

235 Tort Immunity.

236 To the extent permitted by law, the authority shall have the same immunity and exemption
237 from liability for torts and negligence as the county. The officers, agents and employees of
238 the authority when in the performance of the work of the authority shall have the same
239 immunity and exemption from liability for torts and negligence as the officers, agents and
240 employees of the county when in the performance of their public duties or work of the
241 county.

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SECTION 18.

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Property Acquired for Public Purpose.

244 The exercise of the powers conferred upon the authority under this Act shall constitute an
245 essential governmental function for a public purpose, and the property it acquires shall be
246 deemed to be public property. To the maximum extent permitted by laws of this state, the
247 authority shall not be required to pay taxes or assessments upon any of its real or personal
248 property and all revenue bonds, notes and other forms of obligations issued by the authority.
249 Nothing provided in this section shall include an exemption from sales and use tax on
250 property purchased by or for the use of the authority.

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SECTION 19.

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Reversion of Assets Upon Dissolution.

253 Upon the dissolution of the authority, all assets owned by the authority shall become property
254 of the county subject to any property rights vested in other parties.

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SECTION 20.

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Effect on Other Governments.

257 This Act shall not and does not in any way take from any political subdivision or municipal
258 corporation of the state the authority to own, operate and maintain public facilities or to issue
259 revenue bonds as provided by the Revenue Bond Law.

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SECTION 21.

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Liberal Construction of Act.

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This Act being for the welfare of various political subdivisions and municipal corporations

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of the state and its inhabitants and shall be liberally construed to effect the purposes hereof.

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SECTION 22.

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Severability; Effect of Partial Invalidity of Act.

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The provisions of this Act are severable, and if any of its provisions shall be held

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unconstitutional by any court of competent jurisdiction, the decision of such court shall not

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affect or impair any of the remaining provisions.

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SECTION 23.

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Repealer.

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