

Senate Bill 612

By: Senator Walker III of the 20th

**AS PASSED**

A BILL TO BE ENTITLED

AN ACT

1 To create the City of Cochran Public Facilities Authority; to provide that the authority is a  
2 body corporate and politic and an instrumentality of the State of Georgia; to authorize the  
3 authority to acquire, construct, equip, maintain, and operate certain projects, including  
4 buildings and facilities for use by the City of Cochran for its governmental, proprietary, and  
5 administrative functions; to provide for members of the authority and their terms,  
6 organization, and reimbursement; to provide for vacancies; to provide for definitions; to  
7 confer powers and impose duties on the authority; to provide for limitations to the authority;  
8 to authorize the authority to enter into contracts and leases pertaining to uses of such  
9 facilities, which contracts and leases may obligate the lessees to make payment for the use  
10 of the facilities for the term thereof and to pledge for that purpose money derived from  
11 taxation; to provide that no debt of the City of Cochran or the State of Georgia shall be  
12 incurred by the exercise of any of the powers granted; to authorize the issuance of revenue  
13 bonds of the authority payable from the revenues, rents, and earnings and other functions of  
14 the authority; to authorize the collecting and pledging of such revenues, rents, and earnings  
15 for the payment of such bonds; to authorize the adoption of resolutions and the execution of  
16 trust agreements and indentures to secure the payment of such bonds and to define the rights  
17 of the holders of such bonds; to provide for a sinking fund; to make the bonds of the  
18 authority exempt from taxation; to authorize the issuance of refunding bonds; to provide for  
19 the validation of such bonds and to fix the venue for jurisdiction of actions relating to any

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20 provision of this Act; to provide for immunity and exemption from liability for torts and  
21 negligence; to provide that the property of the authority shall not be subject to levy and sale;  
22 to provide that certain moneys are trust funds; to provide that this Act shall be liberally  
23 construed; to define the scope of the authority's operation; to provide for disposition of  
24 property upon dissolution of the authority; to provide for severability; to provide for a short  
25 title; to provide for related matters; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

27 **SECTION 1.**

28 Short title.

29 This Act shall be known and may be cited as the "City of Cochran Public Facilities Authority  
30 Act."

31 **SECTION 2.**

32 City of Cochran Public Facilities Authority.

33 There is created a public body corporate and politic to be known as the City of Cochran  
34 Public Facilities Authority, which shall be an instrumentality and a public corporation of the  
35 State of Georgia, the purpose of which shall be to acquire, construct, equip, maintain, and  
36 operate certain projects for use by the City of Cochran for its governmental, proprietary,  
37 public, and administrative functions. The authority shall not be a state institution or a  
38 department or agency of the state, but shall be an instrumentality of the state, a mere creation  
39 of the state, being a distinct corporate entity and exempt from the provisions of Article 2 of  
40 Chapter 17 of Title 50 of the O.C.G.A., the "Georgia State Financing and Investment

41 Commission Act." The authority shall have its principal office in the City of Cochran, and  
42 its legal situs or residence for the purposes of this Act shall be the City of Cochran.

43 **SECTION 3.**

44 **Membership.**

45 The authority shall consist of seven members who shall be eligible to succeed themselves and  
46 who shall also serve on the governing authority of the City of Cochran. Each member of the  
47 authority shall serve for a term of office concurrent with such person's term of office as a  
48 member of said governing authority and until the appointment and qualification of such  
49 person's successor. Vacancies on the authority shall be filled by said governing authority for  
50 the remainder of the unexpired term and until the appointment and qualification of a  
51 successor. Immediately after their appointment, the members of the authority shall enter  
52 upon their duties. The authority shall elect one of its members as chairperson and one as vice  
53 chairperson. The secretary-treasurer of the authority shall be appointed by the authority and  
54 need not be a member of the authority. Four members of the authority shall constitute a  
55 quorum and no vacancy on the authority shall impair the right of the quorum to exercise all  
56 the rights and perform all the duties of the authority and, in every instance, a majority vote  
57 of a quorum shall authorize any legal act of the authority, including all things necessary to  
58 authorize and issue revenue bonds. The members of the authority shall receive no  
59 compensation for their services but may be reimbursed by the authority for the actual  
60 expenses necessarily incurred in the performance of their duties. The authority shall make  
61 rules and regulations for its own government and shall have perpetual existence.

**SECTION 4.**

## Definitions.

64 As used in this Act, the following words and terms shall have the following meanings unless  
65 a different meaning clearly appears from the context:

66 (1) "Authority" shall mean the City of Cochran Public Facilities Authority created by this  
67 Act.

68 (2) "Cost of project" shall include the cost of lands, buildings, improvements, machinery,  
69 equipment, property, easements, rights, franchises, material, labor, services acquired or  
70 contracted for, plans and specification, and financing charges; construction costs; interest  
71 prior to and during construction; architectural, accounting, engineering, inspection,  
72 administrative, fiscal, and legal expenses; expenses incident to determining the feasibility  
73 or practicability of the project; and expenses incident to the acquiring, constructing,  
74 equipping, and operating of any project or any part thereof and to the placing of the same  
75 in operation.

76 (3) "Project" shall mean and include real and personal property acquired or held by the  
77 authority, including all land, buildings, structures, sanitary and surface water sewers,  
78 storm water management projects, historic preservation projects, utilities, including  
79 natural gas distribution, telecommunications, fiber, cable, and broadband services, and  
80 other public property determined by the authority to be desirable for the efficient  
81 operation of any department, board, office, commission, or agency of the City of  
82 Cochran, or of the State of Georgia, in the performance of its governmental, proprietary,  
83 and administrative functions.

84 (4) "Revenue bonds" shall mean revenue bonds issued under the provisions of Article 3  
85 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," or under the  
86 provisions of this Act. The obligations authorized under this Act may be issued by the  
87 authority in the manner authorized under the Revenue Bond Law.

88

**SECTION 5.**

89

**Powers.**

90 The authority shall have all the powers necessary or convenient to carry out and effectuate  
91 the purposes and provisions of this Act, including, but without limiting the generality of the  
92 foregoing, the power:

93 (1) To sue and be sued;

94 (2) To adopt and alter a corporate seal;

95 (3) To make and execute with public and private persons and corporations contracts,  
96 trusts, leases, rental agreements, and other instruments relating to its projects and in  
97 furtherance of the purposes of the authority, including contracts for the constructing,  
98 renting, and leasing of its projects for the use of any county or municipality in this state;

99 (4) To acquire in its own name by purchase on such terms and conditions and in such  
100 manner as it may deem proper or by gift, grant, lease, or otherwise, real and personal  
101 property necessary or convenient for its corporate purposes, or rights and easements  
102 therein, and to use the same so long as its corporate existence shall continue and to lease  
103 or make contracts with respect to the use of or disposition of the same in any manner it  
104 deems to the best advantage of the authority. Title to any such property shall be held by  
105 the authority exclusively for the benefit of the public;

106 (5) To improve, extend, add to, reconstruct, renovate, or remodel any project or part  
107 thereof already acquired;

108 (6) To pledge or assign any revenues, income, rent, charges, and fees received by the  
109 authority;

110 (7) To appoint and select agents, engineers, architects, attorneys, fiscal agents,  
111 accountants, and employees and to provide for their compensation and duties;

- 112 (8) To construct, reconstruct, acquire, own, alter, repair, remodel, maintain, extend,  
113 improve, operate, manage, and equip projects located on land owned or leased by the  
114 authority;
- 115 (9) To receive, accept, and use any contributions, loans, or grants by persons, firms, or  
116 corporations, including the State of Georgia and the United States of America, and any  
117 other contributions;
- 118 (10) To pay all or part of the costs of any project from the proceeds of revenue bonds of  
119 the authority or from other lawful sources available to it;
- 120 (11) To prescribe rules and regulations for the operation of and to exercise police powers  
121 over the projects managed or operated by the authority;
- 122 (12) To accept, receive, and administer gifts, grants, loans and devises of money,  
123 material, and property of any kind, including loans and grants from the State of Georgia  
124 or the United States of America or any agency or instrumentality thereof, upon such  
125 terms and conditions as the State of Georgia or the United States of America or such  
126 agency or instrumentality may impose;
- 127 (13) To sell, lease, exchange, transfer, assign, pledge, mortgage, dispose of, grant in  
128 trust, or grant options for any real or personal property or interest therein in furtherance  
129 of the purposes of the authority;
- 130 (14) As security for repayment of authority obligations, to pledge, mortgage, convey,  
131 assign, hypothecate, or otherwise encumber any property, real or personal, of such  
132 authority and to execute any trust agreement, indenture, or security agreement containing  
133 any provisions not in conflict with law, which trust agreement, indenture, or security  
134 agreement may provide for foreclosure or forced sale of any property of the authority  
135 upon default, on such obligations, either in payment of principal or interest or in the  
136 performance of any term or condition, as are contained in such agreement or indenture;

137 (15) To borrow money for any of its corporate purposes, to issue revenue bonds payable  
138 solely from funds pledged for that purpose, and to provide for the payment of the same  
139 and for the rights of the holders thereof;

140 (16) To exercise all powers usually possessed by private corporations performing similar  
141 functions which are not in conflict with the Constitution and laws of this state; and

142 (17) Pursuant to proper resolution of the authority, to issue revenue bonds payable from  
143 the rents and revenues of the authority and its projects, which bonds may be issued in  
144 either fully negotiable coupon form, in which event they shall have all the qualities and  
145 incidents of negotiable instruments under the laws of the State of Georgia, or which  
146 bonds may be issued in whole or in part in nonnegotiable fully registered form without  
147 coupons, payable to a designated payee or to the registered assigns of the payee with such  
148 conversion privileges as the authority may provide, for the purpose of paying all or any  
149 part of the cost associated with the projects authorized by the authority, including the cost  
150 of constructing, reconstructing, equipping, extending, adding to, or improving such  
151 projects or for the purpose of refunding, as provided in this Act, any such bonds of the  
152 authority theretofore issued. If the proceeds of the bonds of any issue shall exceed the  
153 amount required for the purpose for which such bonds were issued, the surplus shall be  
154 paid into the fund provided for the payment of principal and interest on such bonds. All  
155 such revenue bonds shall be issued and validated under and in accordance with the  
156 procedures of Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond  
157 Law," and in accordance with all terms and provisions thereof not in conflict with this  
158 Act, and in accordance with Code Section 50-17-1 of the O.C.G.A., relating to use of  
159 facsimile signatures on public securities, and, as security for the payment of any revenue  
160 bonds so authorized, any rents and revenue of the authority may be pledged and assigned.  
161 Such bonds shall be declared to be issued for an essential public and governmental  
162 purpose, and such bonds and all income therefrom shall be exempt from all taxation  
163 within the State of Georgia. For the purpose of the exemption from taxation of such

164 bonds and the income therefrom, the authority shall be deemed to be a political  
165 subdivision of the State of Georgia.

166 **SECTION 6.**

167 Credit not pledged and debt not created by bonds.

168 Revenue bonds issued under the provisions of this Act shall not constitute a debt or a pledge  
169 of the faith and credit of the State of Georgia or City of Cochran, but such bonds shall be  
170 payable from the rentals, revenue, earnings, and funds of the authority as provided in the  
171 resolution or trust agreement or indenture authorizing the issuance and securing the payment  
172 of such bonds. The issuance of such bonds shall not directly, indirectly, or contingently  
173 obligate the state or said municipality to levy or pledge any form of taxation for the payment  
174 thereof. No holder of any bond or receiver or trustee in connection therewith shall have the  
175 right to enforce the payment thereof against any property of the state or of said municipality,  
176 nor shall any such bond constitute a charge, lien, or encumbrance, legal or equitable, upon  
177 any such property. All such bonds shall contain on their face a recital setting forth  
178 substantially the foregoing provisions of this section.

179 **SECTION 7.**

180 Trust agreement.

181 In the discretion of the authority, any issue of revenue bonds may be secured by an  
182 agreement or indenture made by the authority with a corporate trustee, which may be any  
183 trust company or bank having the powers of a trust company within or without the State of  
184 Georgia. Such trust agreement or indenture may pledge and assign rents, fees, charges,  
185 revenues, and earnings to be received by the authority. The resolution providing for the  
186 issuance of revenue bonds and such trust agreement or indenture may contain provisions for

187 protecting and enforcing the rights and remedies of the bondholders, including the right of  
188 appointment of a receiver upon default of the payment of any principal or interest obligation  
189 and the right of any receiver or trustee to enforce collection of any rents, fees, charges, or  
190 revenues for use of the project or projects necessary to pay all costs of operation and all  
191 reserves provided for, all principal and interest on all bonds of the issue, all costs of  
192 collection, and all other costs reasonably necessary to accomplish the collection of such sums  
193 in the event of any default of the authority. Such resolution and such trust agreement or  
194 indenture may include covenants setting forth the duties of the authority in relation to the  
195 acquisition of property for and the construction of the project and to the custody,  
196 safeguarding, and application of all funds and covenants providing for the operation,  
197 maintenance, repair, and insurance of the project or projects and may contain provisions  
198 concerning the conditions, if any, upon which additional revenue bonds may be issued. Such  
199 trust agreement or indenture may set forth the rights and remedies of the bondholders and of  
200 the trustee and may restrict the individual right of action of bondholders as is customary in  
201 securing bonds and debentures of corporations and may contain such other provisions as the  
202 authority may deem reasonable and proper for the security of the bondholders. All expenses  
203 incurred in carrying out such trust may be treated as a part of the cost of maintenance,  
204 operation, and repair of the project affected by such trust.

205

**SECTION 8.**

206

Refunding bonds.

207 The authority is authorized to provide by resolution for the issuance of revenue bonds of the  
208 authority for the purpose of calling, refunding, or refinancing any revenue bonds issued  
209 under the provisions of this Act and then outstanding and to include in the amount of such  
210 refunding bonds all interest and any call premiums that may be required for the redemption  
211 and refunding of such outstanding bonds.

212

**SECTION 9.**

213

Venue of actions, jurisdiction.

214 Any action to protect or enforce any rights under the provisions of this Act or any action  
215 against the authority brought in the courts of the State of Georgia shall be brought in the  
216 Superior Court of Bleckley County, Georgia, and any action pertaining to validation of any  
217 bonds issued under the provisions of this Act shall be brought in said court, which shall have  
218 exclusive, original jurisdiction of such actions.

219

**SECTION 10.**

220

Revenue bond validation.

221 The petition for validation of all revenue bonds of the authority shall be brought against the  
222 authority, and any contracting party whose obligation is pledged as security for the payment  
223 of the bonds sought to be validated, as defendants, and the defendants shall be required to  
224 show cause, if any exists, why such contract or contracts and the terms and conditions thereof  
225 shall not be adjudicated to be in all respects valid and binding upon such contracting parties.  
226 It shall be incumbent upon such defendants to defend against adjudication of the validity and  
227 binding effect of such contract or contracts or be forever bound thereby. Notice of such  
228 proceedings shall be included in the notice of the validation hearing required to be issued and  
229 published by the clerk of the Superior Court of Bleckley County in which court such  
230 validation proceedings shall be initiated.

231

**SECTION 11.**

232

Interest of bondholders protected.

233 While any of the bonds issued by the authority remain outstanding, the powers, duties, or  
234 existence of the authority or of its officers, employees, or agents shall not be diminished,  
235 impaired, or affected in any manner that will affect adversely the interest and rights of the  
236 holders of such bonds. The provisions of this Act shall be for the benefit of the authority and  
237 the holders of any such bonds and, upon the issuance of bonds under the provisions of this  
238 Act, shall constitute a contract with the holders of such bonds.

239

**SECTION 12.**

240

Revenues, earnings, rents, and charges; use.

241 (a) For the purpose of earning sufficient revenue to make possible the financing of the  
242 construction of the project or projects of the authority with revenue bonds, the authority is  
243 authorized and empowered to fix, revise, and collect rents, fees, and charges on each project  
244 which it shall cause to be acquired or constructed. Such rents, fees, or charges to be paid for  
245 the use of such project or projects shall be so fixed and adjusted so as to provide a fund  
246 sufficient with other revenue, if any, of such project or projects or of the authority:

247 (1) To pay the cost of operating, maintaining, and repairing the project or projects,  
248 including reserves for insurance and extraordinary repairs and other reserves required by  
249 the resolution or trust agreement or indenture pertaining to such bonds and the issuance  
250 thereof, unless such cost shall be otherwise provided for;

251 (2) To pay the principal of and interest on such revenue bonds as the same shall become  
252 due, including call premiums, if any, the proceeds of which shall have been or shall be  
253 used to pay the cost of such project or projects;

- 254 (3) To comply with any sinking fund requirements contained in the resolution or trust  
255 agreement or indenture pertaining to the issuance of and security for such bonds;
- 256 (4) To perform fully all provisions of such resolution or trust agreement or indenture  
257 relating to the issuance of or security for such bonds to the payment of which such rent  
258 is pledged;
- 259 (5) To accumulate any excess income which may be required by the purchasers of such  
260 bonds or may be dictated by the requirements of such resolution or trust agreement or  
261 indenture, or which may be required for achieving ready marketability of and low interest  
262 rates on such bonds; and
- 263 (6) To pay any expenses in connection with such bond issue or of such project,  
264 including, but not limited to, trustees', attorney's, and fiscal agents' fees.
- 265 (b) Such rent shall be payable at such intervals as may be agreed upon and set forth in the  
266 rental contract or lease providing therefor, and any such contract or lease may provide for the  
267 commencement of rent payments to the authority prior to the completion of the project by  
268 the authority and may provide for the payment of rent during such times as such project may  
269 be partially or wholly untenable.
- 270 (c) Such rental contract or lease may obligate the tenants or lessees to operate, maintain, and  
271 keep in good repair, including complete reconstruction, if necessary, the rented or leased  
272 premises and projects, regardless of the cause of the necessity of such maintenance, repair,  
273 or reconstruction.
- 274 (d) Such rental contract or lease may obligate the tenants or lessees to indemnify and save  
275 harmless the authority from any and all damage to persons and property occurring on or by  
276 reason of the leased property or improvements thereon and to undertake, at the expense of  
277 the tenants or lessees, the defense of any action brought against the authority by reason of  
278 injury or damages to persons or property occurring on or by reason of the leased premises.
- 279 (e) In the event of any failure or refusal on the part of the tenants or lessees to perform  
280 punctually any covenant or obligation contained in any such rental contract or lease, the

281 authority may enforce performance by any legal or equitable process against the tenants or  
282 lessees.

283 (f) The authority shall be permitted to assign any rent payable to it, pursuant to such rental  
284 contract or lease, to a trustee or paying agent as may be required by the terms of the  
285 resolution or trust agreement or indenture relating to the issuance of and security for such  
286 bonds.

287 (g) The use and disposition of the authority's revenue shall be subject to the provisions of  
288 the resolution authorizing the issuance of such bonds or of the trust agreement or indenture,  
289 if any, securing the same.

290

### **SECTION 13.**

291

#### **Sinking fund.**

292 The revenue, rents, and earnings derived from any particular project or projects and any and  
293 all revenue, rents, and earnings received by the authority, regardless of whether such  
294 revenue, rents, and earnings were produced by a particular project for which bonds have been  
295 issued, unless otherwise pledged, may be pledged by the authority to payment of the  
296 principal of and interest on revenue bonds of the authority as may be provided in any  
297 resolution authorizing the issuance of such bonds or in any trust instrument pertaining to such  
298 bonds, and such funds so pledged, from whatever source received, may include funds  
299 received from one or more or all sources and may be set aside at regular intervals into  
300 sinking funds for which provision may be made in any such resolution or trust instrument  
301 and which may be pledged to and charged with the payment of the interest upon such  
302 revenue bonds as such interest shall become due, the principal of the bonds as the same shall  
303 mature, the necessary charges of any trustee or paying agent for paying such principal and  
304 interest, and any premium upon bonds retired by call or purchase, and the use and disposition  
305 of any sinking fund may be subject to such regulation as may be provided for in the

306 resolution authorizing the issuance of the bonds or in the trust instrument securing the  
307 payment of the same.

308 **SECTION 14.**

309 Taxation status.

310 The exercise of the powers conferred upon the authority under this Act shall constitute an  
311 essential governmental function for a public purpose, and to the maximum extent permitted  
312 by general law, the authority shall be required to pay no taxes or assessments upon any of the  
313 property acquired by it or under its jurisdiction, control, possession, or supervision or upon  
314 its activities in the operation and maintenance of property acquired by it or of buildings  
315 erected or acquired by it or any fees, rents, or other charges for the use of such property or  
316 buildings or other income received by the authority. This section shall not include an  
317 exemption from sales and use tax on property purchased by or for the use of the authority.

318 **SECTION 15.**

319 Immunity from tort actions.

320 The authority shall have the same immunity and exemption from liability for torts and  
321 negligence as a Georgia county, and the officers, agents, and employees of the authority,  
322 when in performance of work of the authority, shall have the same immunity and exemption  
323 from liability for torts and negligence as officers, agents, and employees of a Georgia county.  
324 The authority may be sued the same as private corporations on any contractual obligation of  
325 the authority.

326 **SECTION 16.**

327 Property not subject to levy and sale.

328 The property of the authority shall not be subject to levy and sale under legal process.

329 **SECTION 17.**

330 Trust funds.

331 All funds received pursuant to the authority of Section 12 of this Act, whether as proceeds  
332 from the sale of revenue bonds or as revenue, rents, fees, charges, or other earnings or as  
333 grants, gifts, or other contributions, shall be deemed to be trust funds to be held and applied  
334 by the authority, solely as provided in this Act. The bondholders entitled to receive the  
335 benefits of such funds shall have a lien on all such funds until the same are applied as  
336 provided for in any such resolution or trust instrument of the authority.

337 **SECTION 18.**

338 Construction.

339 This Act and any other law enacted with reference to the authority shall be liberally  
340 construed for the accomplishment of the purposes of the authority.

341 **SECTION 19.**

342 Scope of operations.

343 The projects of the authority's operation shall be located in the territory embraced within the  
344 jurisdictional limits of the City of Cochran as the same now or may hereafter exist.

345

**SECTION 20.**

346

Conveyance of property upon dissolution.

347 Should the authority for any reason be dissolved after full payment of all bonded  
348 indebtedness incurred under this Act, both as to principal and interest, title to all property of  
349 any kind and nature, real and personal, held by the authority at the time of such dissolution  
350 shall be conveyed to the City of Cochran, or title to any such property may be conveyed prior  
351 to such dissolution in accordance with provisions which may be made therefor in any  
352 resolution or trust instrument relating to such property, subject to any liens, leases, or other  
353 encumbrances outstanding against or in respect to said property at the time of such  
354 conveyance.

355

**SECTION 21.**

356

Severability; effect of partial invalidity of Act.

357 Should any sentence, clause, phrase, or part of this Act be declared for any reason to be  
358 unconstitutional or invalid, the same shall not affect such remainder of this Act or any part  
359 hereof, other than the part so held to be invalid, but the remaining provisions of this Act shall  
360 remain in full force and effect, and it is the express intention of this Act to enact each  
361 provision of this Act independently of any other provision hereof.

362

**SECTION 22.**

363

General repealer.

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