

House Bill 1568 (AS PASSED HOUSE AND SENATE)

By: Representatives Williamson of the 115th and Kirby of the 114th

A BILL TO BE ENTITLED
AN ACT

1 To create the Walton County Public Facilities Authority; to provide for a short title; to confer
2 powers and impose duties on the authority; to provide for the membership and the
3 appointment of members of the authority and their terms of office, duties, powers, and
4 compensation; to provide for vacancies, organization, meetings, and expenses; to provide for
5 definitions; to provide for the issuance and sale of revenue bonds and other obligations and
6 their negotiability and sale and use of proceeds from such sales; to provide for conditions for
7 issuance of such obligations; to prohibit the pledge of credit for the payment of bonds; to
8 provide for trust indentures; to provide for payment of bond proceeds; to provide for
9 bondholder remedies and protection; to provide for refunding bonds; to provide for bond
10 validation; to provide for venue and jurisdiction; to provide for trust funds; to provide for the
11 authority's purpose; to provide for charges; to provide for rules and regulations; to provide
12 for tort immunity; to provide statement of tax exemptions and exemptions from levy and
13 sale; to provide for supplemental powers; to provide for effect on other governments; to
14 provide for liberal construction; to provide for severability; to provide for related matters;
15 to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1568

- 1 -

17 **SECTION 1.**

18 Short title.

19 This Act shall be known and may be cited as the "Walton County Public Facilities Authority
20 Act."

21 **SECTION 2.**

22 Creation of authority; purpose.

23 There is created a body corporate and politic to be known as the "Walton County Public
24 Facilities Authority," which shall be deemed to be a public corporation. Such corporation
25 shall be separate and distinct from any public corporation or other entity heretofore created
26 by the General Assembly and shall be an instrumentality of the State of Georgia exercising
27 governmental powers. The authority is created for the purpose of promoting the public good
28 and general welfare of the citizens of Walton County and assisting Walton County in
29 providing facilities, equipment, and services to the citizens of Walton County and the citizens
30 located in the territories served by Walton County in the most efficient means possible. In
31 connection with the exercise of any of its powers, the members of the authority may make
32 findings or determinations regarding the public good and general welfare of Walton County
33 and the use of facilities, equipment, and services, and such findings or determinations, if
34 made, shall be conclusive and binding.

35 **SECTION 3.**

36 Definitions.

37 As used in this Act, the term:

38 (1) "Authority" means the Walton County Public Facilities Authority created in this Act.

39 (2) "Cost of the project" shall include:

40 (A) The cost of construction;

41 (B) The cost of all land or interests therein, properties, rights, easements, and
42 franchises acquired;

43 (C) The cost of acquiring, constructing, or erecting buildings; improvements; materials;
44 labor; and services;

45 (D) The cost of all machinery and equipment;

46 (E) Financing charges, including interest prior to and during construction or acquisition
47 of any project and for six months after such project is placed in service and operational
48 at the level intended;

49 (F) The cost of construction, engineering, architectural, fiscal, accounting, inspection,
50 and legal expenses relating to any project or to the financing or refinancing of any
51 project and other expenses necessary or incident to determining the feasibility or
52 practicability of any project; and

53 (G) Administrative expenses relating to any project or to the financing or refinancing
54 thereof and such other expenses as may be necessary or incident to the financing of a
55 project authorized by this Act; the acquisition, construction, renovation, reconstruction,
56 or remodeling of a project; and the placing of the same in operation.

57 Any such obligation or expense shall be regarded as a part of the cost of the project and
58 may be paid or reimbursed as such out of any funds of the authority, including proceeds
59 of any revenue bonds issued under the provisions of this Act for any such project or
60 projects and the proceeds of the sale of any contracts, lease agreements, or installment
61 sale agreements or the amounts payable thereunder, either directly or by the creation of
62 interests therein.

63 (3) "County" means Walton County, Georgia.

64 (4) "Project" means any capital project, located inside or outside the territorial
65 boundaries of the county, determined by the authority to promote the public good or

66 general welfare of the citizens of the county or to be necessary or convenient for the
67 efficient operation of the county or any of its enterprises or systems, including, but not
68 limited to, the acquisition, construction, renovation, improvement, extension, addition,
69 or equipping of:

70 (A) Utility systems and improvements, including, without limitation, water and sewer
71 systems and facilities, sewage and solid waste disposal systems and facilities, and
72 electric, gas, and other similar facilities or systems;

73 (B) Emergency facilities, including emergency, fire, sheriff, and rescue facilities;

74 (C) Recreational facilities, including parks, athletic fields, buildings, or other similar
75 facilities;

76 (D) Public safety facilities, including jails; sheriff's offices, facilities, or equipment;
77 and state patrol or other law enforcement facilities or equipment;

78 (E) Healthcare facilities and equipment;

79 (F) Educational, cultural, or historical facilities and equipment;

80 (G) Transportation facilities and equipment;

81 (H) Administrative facilities and equipment;

82 (I) Any "undertaking" permitted by the Revenue Bond Law; and

83 (J) Any undertaking, project, or service for which the governmental body contracting
84 with the authority is authorized by law to undertake in the performance of its
85 governmental, proprietary, or administrative functions; all personal property to be used
86 in connection therewith; and the lease and sale of any part or all of such facilities,
87 including real and personal property, so as to ensure the efficient and proper
88 development, maintenance, and operation of such project deemed by the authority to
89 be necessary, convenient, or desirable.

90 (5) "Revenue bonds" means revenue bonds issued by the authority pursuant to the terms
91 of this Act or under Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue
92 Bond Law."

SECTION 4.

Powers of the authority.

95 The authority shall have the power:

96 (1) To hold, own, lease, transfer, and convey real and personal property or interests;

97 (2) To sue and be sued;

98 (3) To have and to use a seal and to alter the same at its pleasure;

99 (4) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell
100 any project;

101 (5) To exercise the powers conferred upon a "public corporation" or a "public authority"
102 by Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority
103 being expressly declared to be a "public corporation" or a "public authority" within the
104 meaning of such provision of the Constitution of Georgia;

105 (6) To acquire property and projects in its own name by gift or by purchase on such
106 terms and conditions and in such manner as it may deem proper. If the authority shall
107 deem it expedient to construct any project on real property or any interest therein or
108 usufruct which is subject to the control of the county, the county is authorized to convey
109 such real property or interest therein to the authority for no consideration or for such
110 consideration as may be agreed upon by the authority and the county, taking into
111 consideration the public benefit to be derived from such conveyance. The county may
112 transfer such property or interest therein without the necessity of putting the same out for
113 bid and without regard to any determination as to whether or not such property or interest
114 therein is in surplus;

115 (7) To accept gifts and bequests for its corporate purposes;

116 (8) To appoint, select, and employ, with or without bidding, as the authority may choose,
117 officers, agents, and employees, including engineering, architectural, and construction

118 experts; fiscal agents, underwriters, or other advisors; and attorneys, and to fix their
119 compensation;

120 (9) To make and execute with public and private persons and corporations contracts,
121 lease agreements, rental agreements, installment sale agreements, and other instruments
122 relating to its projects and incident to the exercise of the powers of the authority,
123 including contracts for constructing, renting, leasing, and selling its projects for the
124 benefit of the county, provided, without limiting the generality of this paragraph, that the
125 authority is specifically granted the power to enter into contracts, lease agreements, rental
126 agreements, installment sale agreements, and related agreements for a term not
127 exceeding 50 years as provided in Article IX, Section III of the Constitution of Georgia;

128 (10) To lease, sell, transfer, or otherwise dispose of any property, real or personal, or
129 assets of the authority or to assign its rights under its contracts, lease agreements, or
130 installment sale agreements or its right to receive payments thereunder, either directly or
131 through trusts or custodial arrangements whereby interests are created in such contracts,
132 lease agreements, or installment sale agreements or the payments to be received
133 thereunder through the issuance of trust certificates, certificates of participation, custodial
134 receipts, or other similar instruments. In connection with any such sale, lease, transfer,
135 or assignment, the authority need not comply with any other provision of law requiring
136 public bidding or any announcement to the public of the sale of such property, assets, or
137 rights;

138 (11) To accept loans and grants of money or property of any kind from the United States,
139 the State of Georgia, or any political subdivision or municipal corporation of the State of
140 Georgia;

141 (12) To borrow money for any of its corporate purposes and to issue revenue bonds,
142 notes, or other types of indebtedness payable solely from funds or revenues of the
143 authority pledged for that purpose and to pledge and assign any of its revenues, income,
144 rent, charges, and fees to provide for the payment of the same and to provide for the

145 rights of the holders of such revenue bonds; provided, however, that the power conferred
146 by this paragraph shall not be exercised after the expiration of four years from the
147 effective date of this Act;

148 (13) To enter into interest rate swaps, collars, or other types of interest rate management
149 agreements or credit enhancement or liquidity agreements relating to any obligations of
150 the authority, provided that the obligation of the authority under any such agreements
151 shall not be a general obligation of the authority but shall be a limited obligation of the
152 authority payable from a specific source of funds identified for such purpose. To the
153 extent permitted by general law, the authority shall be exempt from any requirement of
154 Georgia law requiring a swap management plan or other similar plan relating to interest
155 rate swap agreements;

156 (14) To make such rules and regulations governing its employees and property as it may
157 in its discretion deem proper;

158 (15) To sue any other person or entity as any private corporation. The authority may be
159 sued the same as any private corporation on any contractual obligation of the authority;
160 and

161 (16) To issue its revenue bonds, notes, or other obligations to finance or refinance any
162 project which may be financed by the county under the Revenue Bond Law of the State
163 of Georgia.

164 **SECTION 5.**

165 Members of the authority; terms of office.

166 (a) The authority shall consist of five members as follows:

167 (1) One shall be the chairperson of the board of commissioners of the county;

168 (2) Two shall be other members of the board of commissioners of the county to be
169 appointed by said board of commissioners; and

170 (3) Two shall be residents of the county to be appointed by the board of commissioners
171 of the county.

172 (b) The terms of office of the members who are members of the board of commissioners
173 shall be concurrent with their terms of office as members of the board of commissioners.
174 The terms of office of the remaining members of the authority shall be four years and until
175 their successors are appointed and qualified. Successors to such members shall be appointed
176 as the original members were appointed, as provided herein, and any vacancies shall be filled
177 by the appointing authority, as provided herein, for the unexpired term. A majority of the
178 members of the authority shall constitute a quorum, and no vacancy on the authority shall
179 impair the right of the quorum to exercise all the rights and perform all the duties of the
180 authority, and, in every instance, a majority vote of the quorum present shall authorize any
181 legal act of the authority, including all things necessary to authorize and issue revenue bonds.
182 One of the members of the authority who is also a member of the board of commissioners
183 shall be the chairperson of the authority, with such chairperson to be elected by the board of
184 commissioners. The authority shall elect a secretary and treasurer who need not be members
185 of the authority. The authority may elect a vice chairperson or any number of assistant
186 secretaries or treasurers as it may from time to time deem necessary or desirable. The
187 members of the authority shall not be entitled to compensation for their services but shall be
188 entitled to be reimbursed for the actual expenses necessarily incurred in the performance of
189 their duties. The authority shall make rules and regulations for its own governance, and it
190 shall have perpetual existence. Any change in name or composition of the authority shall in
191 no way affect the vested rights of any person under the provisions of this Act or impair the
192 obligations of any contracts existing under this Act.

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SECTION 6.

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Issuance and sale of revenue bonds.

195 The authority shall have power and is authorized from time to time to provide for the
196 issuance and sale of negotiable revenue bonds in the manner provided by Article 3 of
197 Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," for the purpose of paying
198 all or any part of the cost of any one or more projects, including the cost of constructing,
199 reconstructing, equipping, extending, adding to, or improving any such project, or for the
200 purpose of refunding, as herein provided, any such bonds of the authority or of any other
201 authority or public body previously issued to finance or refinance the cost of a project. The
202 principal of and interest on such revenue bonds shall be a limited obligation of the authority
203 payable solely from the source or sources of funds specified in the indenture or resolution
204 of the authority authorizing the issuance of such revenue bonds. The revenue bonds of each
205 issue shall be issued and validated under and in accordance with the provisions of the
206 Revenue Bond Law. Such revenue bonds shall mature on such dates, bear interest at such
207 rate or rates, whether fixed or variable, be subject to redemption, and have such other terms
208 as the authority may provide in the indenture or resolution relating thereto. Such revenue
209 bonds shall not be subject to any provision of Georgia law limiting the rate of interest
210 payable thereon and may be sold in a negotiated sale or in a public sale as the authority may
211 determine.

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SECTION 7.

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Power to incur loans or issue notes.

214 The authority shall also have the power to incur indebtedness from time to time for the
215 purpose of financing or refinancing any project or refunding any obligations previously
216 issued for such purpose, or for any other purpose, whether in the form of a loan or through

217 the issuance of notes, and the principal of and interest on such notes or loans shall be a
218 limited obligation of the authority payable solely from the source or sources of funds
219 specified in the resolution or trust indenture of the authority authorizing such loan or the
220 issuance of such notes. Any such loan or notes shall not be required to be validated as a
221 condition to the issuance thereof and shall have such terms as may be specified by the
222 authority in the resolution or indenture authorizing the same.

223 **SECTION 8.**

224 Negotiable instruments; bonds and other obligations exempt from taxation.

225 All revenue bonds issued under the provisions of this Act shall have all the qualities and
226 incidents of negotiable instruments under the negotiable instruments law of this state. All
227 such bonds and any loan incurred or note issued as provided in this Act, to the extent
228 authorized and permitted by general law, are declared to be issued or incurred for an essential
229 public and governmental purpose, and such obligations and the interest thereon shall be
230 exempt from all taxation within this state.

231 **SECTION 9.**

232 Revenue bonds or notes not a debt or general obligation.

233 Revenue bonds or notes issued under the provisions of this Act or any loan incurred as
234 authorized in this Act shall not constitute a debt or a pledge of the faith and credit of the State
235 of Georgia or of any political subdivision or municipal corporation thereof, including the
236 county, but shall be payable solely from the sources as may be designated in the resolution
237 or indenture of the authority authorizing the issuance of the same. The issuance of such
238 obligations shall not directly, indirectly, or contingently obligate the State of Georgia or any
239 political subdivision or municipal corporation thereof, including the county, to levy or to

240 pledge any form of taxation whatever for the payment thereof. No holder of any bond or
241 receiver or trustee in connection therewith shall have the right to enforce the payment thereof
242 against any property of the State of Georgia or any political subdivision or municipal
243 corporation thereof, including the county, nor shall any such bond constitute a charge, lien,
244 or encumbrance, legal or equitable, upon any such property. All such obligations shall
245 contain on their face a recital setting forth substantially the foregoing provisions of this
246 section. Nothing in this section shall be construed to prohibit the State of Georgia or any
247 political subdivision, municipal corporation, or agency thereof, including the county, from
248 obligating itself to pay the amounts required under any contract entered into with the
249 authority pursuant to Article IX of the Constitution of the State of Georgia or any successor
250 provision, including from funds received from taxes to be levied and collected for that
251 purpose to the extent necessary to pay the obligations contractually incurred with the
252 authority and from any other source.

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SECTION 10.

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Issuance of bonds or obligations under trust indentures or resolutions.

255 In the discretion of the authority, any issuance of such revenue bonds, notes, or other
256 obligations may be secured by a trust indenture by and between the authority and a trustee,
257 which may be any trust company or bank having the powers of a trust company within or
258 outside of the State of Georgia. Such trust indenture may pledge or assign fees, tolls, rents,
259 revenues, and earnings to be received by the authority, including the proceeds derived from
260 the financing, sale, or lease, from time to time, of any project. Either the resolution
261 providing for the issuance of revenue bonds or other obligations or such trust indenture may
262 contain such provisions for protecting and enforcing the rights and remedies of the owners
263 of such bonds or obligations as may be reasonable and proper and not in violation of law,
264 including covenants setting forth the duties of the authority or any lessee or purchaser in

265 relation to the acquisition and construction of any project; the maintenance, operation, repair,
266 and issuance of any project; and the custody, safeguarding, and application of all moneys,
267 including the proceeds derived from the sale or lease of any project or from the sale of any
268 such bonds, notes, or other obligations and may also contain provisions concerning the
269 conditions, if any, upon which additional bonds, notes, or other obligations may be issued,
270 whether on a parity with or subordinate to, any other obligations issued by the authority.
271 Such trust indenture or resolution may set forth the rights and remedies of the owners of such
272 obligations and of the trustee. In addition to the foregoing, such trust indenture or resolution
273 may contain such other provisions as the authority may deem reasonable and proper for the
274 security of the owners of such bonds or other obligations or otherwise necessary or
275 convenient in connection with the issuance of such obligations. All expenses incurred in
276 carrying out such trust indenture or resolution may be treated as a part of the cost of
277 maintenance, operation, and repair of the project affected by such trust indenture or
278 resolution.

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SECTION 11.

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Security for the payment of bonds or other obligations.

281 The authority may assign or pledge any property or revenues to the payment of the principal
282 and interest on revenue bonds of the authority as the resolution authorizing the issuance of
283 the bonds or the trust indenture may provide. The use and disposition of such property or
284 revenues assigned to the payment of bonds or other obligations shall be subject to the trust
285 indenture or resolution authorizing the issuance of such revenue bonds or obligations. Any
286 lien created by the authority for the payment of such bonds or obligations may be a first lien
287 or a subordinate lien as the authority may provide, and any such trust indenture or resolution
288 may provide, at the option of the authority, for the issuance of additional bonds or other
289 obligations sharing any lien on a parity or subordinate lien basis.

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SECTION 12.

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Refunding bonds or obligations.

292 The authority is authorized to provide by resolution for the issuance of obligations, whether
293 revenue bonds, notes, or other obligations, for the purpose of refunding any revenue bonds
294 or other obligations issued under the provisions of this Act or under any other provision of
295 Georgia law so long as such bonds or other obligations were issued for a purpose or project
296 for which the authority could issue bonds. The issuance of such refunding bonds or other
297 obligations and all the details thereof, the rights of the holders thereof, and the duties of the
298 authority with respect to the same shall be governed by the foregoing provisions of this Act
299 insofar as the same may be applicable.

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SECTION 13.

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Principal office; venue.

302 The principal office of the authority shall be in the county, and the venue of any action
303 against it shall be in Walton County, Georgia. Any action pertaining to the validation of any
304 bonds issued under the provisions of this Act and for the validation of any contract entered
305 into by the authority shall be brought in the Superior Court of Walton County, and such court
306 shall have exclusive original jurisdiction of such actions. Service upon the authority of any
307 process, subpoena, or summons shall be effected by serving the same personally upon any
308 member of the authority.

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SECTION 14.

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Validation of revenue bonds.

311 Revenue bonds of the authority shall be confirmed and validated in accordance with the
312 procedure now or hereafter set forth in Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,
313 the "Revenue Bond Law," as the same now exists or may hereafter be amended. The petition
314 for validation shall also make a party defendant to such action the county, if the county has
315 contracted or will contract with the authority with respect to the project for which bonds are
316 to be issued and are sought to be validated. The bonds, when validated, and the judgment
317 of validation shall be final and conclusive with respect to the validity of such bonds against
318 the authority and against all other persons or entities, regardless of whether such persons or
319 entities were parties to such validation proceedings.

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SECTION 15.

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No impairment of rights.

322 While any of the bonds or other obligations issued by the authority or any interests in
323 contracts of the authority remain outstanding, the powers, duties, or existence of the authority
324 or of its officers, employees, or agents shall not be diminished or impaired in any manner that
325 will affect adversely the interest and rights of the holders of such bonds or obligations or
326 such interests in contracts of the authority. The provisions of this section of this Act shall
327 be for the benefit of the authority and of the holders of any such bonds or obligations and
328 interests in contracts of the authority and, upon the issuance of bonds or obligations or the
329 creation of interests in contracts of the authority under the provisions of this Act, shall
330 constitute a contract with the holders of such bonds or obligations or such interests in
331 contracts of the authority.

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SECTION 16.

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Trust funds; permitted investments.

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All moneys received by the authority pursuant to this Act, whether as proceeds from the sale of revenue bonds or obligations of the authority, as grants or other contributions, or as revenues, income, fees, and earnings, shall be deemed to be the trust funds to be held and applied solely as provided in this Act and in such resolutions and trust indentures as may be adopted and entered into by the authority pursuant to this Act. Any such moneys or funds may be invested from time to time in such investments as may be permitted under the indenture, agreement, or resolution establishing the fund or account in which such funds are held, or if not held in such a fund or account, in such investments as would be permitted investments for a development authority created under Code Section 36-62-1 of the O.C.G.A., as amended.

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SECTION 17.

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Power to set rates, fees, and charges.

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The authority is authorized to prescribe and fix and collect rates, fees, tolls, rents, and charges and to revise, from time to time, and collect such revised rates, fees, tolls, rents, and charges for the services, facilities, or commodities furnished, including leases, concessions, or subleases of its projects, and to determine the price and terms at and under which its projects may be sold, leased, or otherwise disposed of.

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SECTION 18.

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Essential governmental function; no taxes or assessments.

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All property or interests in property owned by the authority shall be public property held and

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owned for governmental purposes and shall to the extent authorized and permitted by general

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law be exempt from ad valorem taxation. The exercise of the powers conferred upon the

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authority hereunder shall constitute an essential governmental function for a public purpose,

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and the authority shall to the extent authorized and permitted by general law not be required

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to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction,

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control, possession, or supervision or upon its activities in the operation and maintenance of

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property acquired by it or of buildings erected or acquired by it or any fees, rentals, or other

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charges for the use of such property or buildings or other income received by the authority.

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This section shall not include an exemption from sales and use tax on property purchased by

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or for the use of the authority.

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SECTION 19.

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Immunity of authority and members.

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The authority shall have the same immunity and exemption from liability for torts and

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negligence as the State of Georgia, and the officers, agents, and employees of the authority,

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when in performance of the work of the authority, shall have the same immunity and

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exemption from liability for torts and negligence as officers, agents, and employees of the

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State of Georgia.

371 **SECTION 20.**

372 Authority property not subject to levy and sale.

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

374 **SECTION 21.**

375 Authority area of operation.

376 The scope of the authority's operations shall be limited to the territory embraced within the
377 territorial limits of the county and within the territorial limits of any project owned or
378 operated by the county, as the same now or may hereafter exist; provided, however, that
379 nothing in this section shall prevent the authority from contracting with any entity, public or
380 private, outside of the county with respect to any project located in the county or any project
381 located outside of the county, if the authority shall determine that entering into such contract
382 is in the best interest of the authority and in furtherance of its public purposes.

383 **SECTION 22.**

384 Supplemental powers.

385 This Act does not in any way take away from the authority any power which may be
386 conferred upon it by law but is supplemental thereto.

387 **SECTION 23.**

388 No power to impose taxes.

389 The authority shall not have the right to impose any tax on any person or property.

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SECTION 24.

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Act to be liberally construed.

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This Act shall be liberally construed to effect the purposes hereof.

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SECTION 25.

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Severability of provisions.

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Should any sentence, clause, phrase, or part of this Act be declared for any reason to be

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unconstitutional or invalid, the same shall not affect the remainder of this Act, or any part

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hereof, other than the part so held to be invalid, but the remaining provisions of this Act shall

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remain in full force and effect, and it is the express intention of this Act to enact each

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provision of this Act independently of any other provision hereof.

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SECTION 26.

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Conflicting laws.

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