

House Bill 1573 (AS PASSED HOUSE AND SENATE)

By: Representative Yeara of the 152nd

A BILL TO BE ENTITLED

AN ACT

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

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19 of such bonds; to provide for a sinking fund; to make the bonds of the authority exempt from
20 taxation; to authorize the issuance of refunding bonds; to provide for the validation of such
21 bonds and to fix the venue for jurisdiction of actions relating to any provision of this Act; to
22 provide for immunity and exemption from liability for torts and negligence; to provide that
23 the property of the authority shall not be subject to levy and sale; to provide that certain
24 moneys are trust funds; to provide that this Act shall be liberally construed; to define the
25 scope of the authority's operation; to provide for disposition of property upon dissolution of
26 the authority; to provide for severability; to provide for a short title; to provide for related
27 matters; to repeal conflicting laws; and for other purposes.

28 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

29 **SECTION 1.**

30 Short title.

31 This Act shall be known and may be cited as the "Worth County Building Authority Act."

32 **SECTION 2.**

33 Worth County Building Authority.

34 There is created a public body corporate and politic to be known as the Worth County
35 Building Authority, which shall be an instrumentality and a public corporation of the State
36 of Georgia, the purpose of which shall be to acquire, construct, equip, maintain, and operate
37 certain projects for use by Worth County, the Worth County School District, or any other
38 political subdivision or municipality located within Worth County for its governmental,
39 proprietary, public, and administrative functions. The authority shall not be a state institution
40 or a department or agency of the state, but shall be an instrumentality of the state, a mere

41 creation of the state, being a distinct corporate entity and exempt from the provisions of
42 Article 2 of Chapter 17 of Title 50 of the O.C.G.A., the "Georgia State Financing and
43 Investment Commission Act." The authority shall have its principal office in Worth County,
44 and its legal situs or residence for the purposes of this Act shall be Worth County.

45 **SECTION 3.**

46 **Membership.**

47 The authority shall consist of five members who shall be eligible to succeed themselves and
48 who shall be appointed by the Board of Commissioners of Worth County. No more than two
49 members of the authority may be members of said board of commissioners. Any member
50 of the authority who is a member of said board of commissioners shall serve for a term of
51 office concurrent with such person's term of office as a member of said board of
52 commissioners. Each member of the authority who is not a member of said board of
53 commissioners shall serve for a term of office of three years, except that the initial terms of
54 office of those members first appointed to the authority shall be specified at the time of
55 appointment to be one, two, and, if no such member is a member of the board of
56 commissioners, three years. After such initial terms, those members who are not members
57 of said board of commissioners shall serve for terms of office of three years each. Members
58 of the authority shall serve for the terms of office so specified and until the appointment and
59 qualification of their respective successors. Vacancies on the authority shall be filled by said
60 board of commissioners for the remainder of the unexpired term and until the appointment
61 and qualification of a successor. Immediately after their appointment, the members of the
62 authority shall enter upon their duties. The authority shall elect one of its members as
63 chairperson and one as vice chairperson. The secretary-treasurer of the authority shall be
64 appointed by the authority and need not be a member of the authority. Two members of the
65 authority shall constitute a quorum and no vacancy on the authority shall impair the right of

66 the quorum to exercise all the rights and perform all the duties of the authority and, in every
67 instance, a majority vote of a quorum shall authorize any legal act of the authority, including
68 all things necessary to authorize and issue revenue bonds. The members of the authority
69 shall receive no compensation for their services but may be reimbursed by the authority for
70 the actual expenses necessarily incurred in the performance of their duties. The authority
71 shall make rules and regulations for its own government and shall have perpetual existence.

72 SECTION 4.

73 Definitions.

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

76 (1) "Authority" shall mean the Worth County Building Authority created by this Act.

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

85 (3) "Project" shall mean and include real and personal property acquired or held by the
86 authority, including all land; buildings; structures; sanitary and surface water sewers;
87 utilities, including natural gas distribution, telecommunications, fiber, cable, and
88 broadband services; and other public property determined by the authority to be desirable
89 for the efficient operation of any department, board, office, commission, or agency of
90 Worth County, the Worth County School District, any municipality or other political

91 subdivision located in Worth County, or the State of Georgia in the performance of its
92 governmental, proprietary, and administrative functions, provided that such services shall
93 not include electric power generation and transmission services.

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

98 SECTION 5.

99 Powers.

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

103 (1) To sue and be sued;

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

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

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

- 116 (5) To improve, extend, add to, reconstruct, renovate, or remodel any project or part
117 thereof already acquired;
- 118 (6) To pledge or assign any revenues, income, rent, charges, and fees received by the
119 authority;
- 120 (7) To appoint and select agents, engineers, architects, attorneys, fiscal agents,
121 accountants, and employees and to provide for their compensation and duties;
- 122 (8) To construct, reconstruct, acquire, own, alter, repair, remodel, maintain, extend,
123 improve, operate, manage, and equip projects located on land owned or leased by the
124 authority;
- 125 (9) To receive, accept, and use any contributions, loans, or grants by persons, firms, or
126 corporations, including the State of Georgia and the United States of America, and any
127 other contributions;
- 128 (10) To pay all or part of the costs of any project from the proceeds of revenue bonds of
129 the authority or from other lawful sources available to it;
- 130 (11) To prescribe rules and regulations for the operation of and to exercise police powers
131 over the projects managed or operated by the authority;
- 132 (12) To accept, receive, and administer gifts, grants, loans and devises of money,
133 material, and property of any kind, including loans and grants from the State of Georgia
134 or the United States of America or any agency or instrumentality thereof, upon such
135 terms and conditions as the State of Georgia or the United States of America or such
136 agency or instrumentality may impose;
- 137 (13) To sell, lease, exchange, transfer, assign, pledge, mortgage, dispose of, grant in
138 trust, or grant options for any real or personal property or interest therein in furtherance
139 of the purposes of the authority;
- 140 (14) As security for repayment of authority obligations, to pledge, mortgage, convey,
141 assign, hypothecate, or otherwise encumber any property, real or personal, of such
142 authority and to execute any trust agreement, indenture, or security agreement containing

143 any provisions not in conflict with law, which trust agreement, indenture, or security
144 agreement may provide for foreclosure or forced sale of any property of the authority
145 upon default, on such obligations, either in payment of principal or interest or in the
146 performance of any term or condition, as are contained in such agreement or indenture;
147 (15) To borrow money for any of its corporate purposes, to issue revenue bonds payable
148 solely from funds pledged for that purpose, and to provide for the payment of the same
149 and for the rights of the holders thereof;

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

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

170 bonds so authorized, any rents and revenue of the authority may be pledged and assigned.
171 Such bonds shall be declared to be issued for an essential public and governmental
172 purpose, and such bonds and all income therefrom shall be exempt from all taxation
173 within the State of Georgia. For the purpose of the exemption from taxation of such
174 bonds and the income therefrom, the authority shall be deemed to be a political
175 subdivision of the State of Georgia.

176 **SECTION 6.**

177 Credit not pledged and debt not created by bonds.

178 Revenue bonds issued under the provisions of this Act shall not constitute a debt or a pledge
179 of the faith and credit of the State of Georgia, Worth County, the Worth County School
180 District, or any municipality or other political subdivision located in Worth County, but such
181 bonds shall be payable from the rentals, revenue, earnings, and funds of the authority as
182 provided in the resolution or trust agreement or indenture authorizing the issuance and
183 securing the payment of such bonds. The issuance of such bonds shall not directly,
184 indirectly, or contingently obligate the state or said county to levy or pledge any form of
185 taxation for the payment thereof. No holder of any bond or receiver or trustee in connection
186 therewith shall have the right to enforce the payment thereof against any property of the state
187 or of said county, nor shall any such bond constitute a charge, lien, or encumbrance, legal or
188 equitable, upon any such property. All such bonds shall contain on their face a recital setting
189 forth substantially the foregoing provisions of this section.

190

SECTION 7.

191

Trust agreement.

192 In the discretion of the authority, any issue of revenue bonds may be secured by an
193 agreement or indenture made by the authority with a corporate trustee, which may be any
194 trust company or bank having the powers of a trust company within or without the State of
195 Georgia. Such trust agreement or indenture may pledge and assign rents, fees, charges,
196 revenues, and earnings to be received by the authority. The resolution providing for the
197 issuance of revenue bonds and such trust agreement or indenture may contain provisions for
198 protecting and enforcing the rights and remedies of the bondholders, including the right of
199 appointment of a receiver upon default of the payment of any principal or interest obligation
200 and the right of any receiver or trustee to enforce collection of any rents, fees, charges, or
201 revenues for use of the project or projects necessary to pay all costs of operation and all
202 reserves provided for, all principal and interest on all bonds of the issue, all costs of
203 collection, and all other costs reasonably necessary to accomplish the collection of such sums
204 in the event of any default of the authority. Such resolution and such trust agreement or
205 indenture may include covenants setting forth the duties of the authority in relation to the
206 acquisition of property for and the construction of the project and to the custody,
207 safeguarding, and application of all funds and covenants providing for the operation,
208 maintenance, repair, and insurance of the project or projects and may contain provisions
209 concerning the conditions, if any, upon which additional revenue bonds may be issued. Such
210 trust agreement or indenture may set forth the rights and remedies of the bondholders and of
211 the trustee and may restrict the individual right of action of bondholders as is customary in
212 securing bonds and debentures of corporations and may contain such other provisions as the
213 authority may deem reasonable and proper for the security of the bondholders. All expenses
214 incurred in carrying out such trust may be treated as a part of the cost of maintenance,
215 operation, and repair of the project affected by such trust.

216 **SECTION 8.**
217 Refunding bonds.

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

223 **SECTION 9.**
224 Venue of actions, jurisdiction.

225 Any action to protect or enforce any rights under the provisions of this Act or any action
226 against the authority brought in the courts of the State of Georgia shall be brought in the
227 Superior Court of Worth County, Georgia, and any action pertaining to validation of any
228 bonds issued under the provisions of this Act shall be brought in said court, which shall have
229 exclusive, original jurisdiction of such actions.

230 **SECTION 10.**
231 Revenue bond validation.

232 The petition for validation of all revenue bonds of the authority shall be brought against the
233 authority, and any contracting party whose obligation is pledged as security for the payment
234 of the bonds sought to be validated, as defendants, and the defendants shall be required to
235 show cause, if any exists, why such contract or contracts and the terms and conditions thereof
236 shall not be adjudicated to be in all respects valid and binding upon such contracting parties.
237 It shall be incumbent upon such defendants to defend against adjudication of the validity and

238 binding effect of such contract or contracts or be forever bound thereby. Notice of such
239 proceedings shall be included in the notice of the validation hearing required to be issued and
240 published by the clerk of the Superior Court of Worth County in which court such validation
241 proceedings shall be initiated.

242 **SECTION 11.**

243 Interest of bondholders protected.

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

250 **SECTION 12.**

251 Revenues, earnings, rents, and charges; use.

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

258 (1) To pay the cost of operating, maintaining, and repairing the project or projects,
259 including reserves for insurance and extraordinary repairs and other reserves required by

260 the resolution or trust agreement or indenture pertaining to such bonds and the issuance
261 thereof, unless such cost shall be otherwise provided for;

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

265 (3) To comply with any sinking fund requirements contained in the resolution or trust
266 agreement or indenture pertaining to the issuance of and security for such bonds;

267 (4) To perform fully all provisions of such resolution or trust agreement or indenture
268 relating to the issuance of or security for such bonds to the payment of which such rent
269 is pledged;

270 (5) To accumulate any excess income which may be required by the purchasers of such
271 bonds or may be dictated by the requirements of such resolution or trust agreement or
272 indenture, or which may be required for achieving ready marketability of and low interest
273 rates on such bonds; and

274 (6) To pay any expenses in connection with such bond issue or of such project,
275 including, but not limited to, trustees', attorney's, and fiscal agents' fees.

276 (b) Such rent shall be payable at such intervals as may be agreed upon and set forth in the
277 rental contract or lease providing therefor, and any such contract or lease may provide for the
278 commencement of rent payments to the authority prior to the completion of the project by
279 the authority and may provide for the payment of rent during such times as such project may
280 be partially or wholly untenable.

281 (c) Such rental contract or lease may obligate the tenants or lessees to operate, maintain, and
282 keep in good repair, including complete reconstruction, if necessary, the rented or leased
283 premises and projects, regardless of the cause of the necessity of such maintenance, repair,
284 or reconstruction.

285 (d) Such rental contract or lease may obligate the tenants or lessees to indemnify and save
286 harmless the authority from any and all damage to persons and property occurring on or by

287 reason of the leased property or improvements thereon and to undertake, at the expense of
288 the tenants or lessees, the defense of any action brought against the authority by reason of
289 injury or damages to persons or property occurring on or by reason of the leased premises.

290 (e) In the event of any failure or refusal on the part of the tenants or lessees to perform
291 punctually any covenant or obligation contained in any such rental contract or lease, the
292 authority may enforce performance by any legal or equitable process against the tenants or
293 lessees.

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

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

301 **SECTION 13.**

302 **Sinking fund.**

303 The revenue, rents, and earnings derived from any particular project or projects and any and
304 all revenue, rents, and earnings received by the authority, regardless of whether such
305 revenue, rents, and earnings were produced by a particular project for which bonds have been
306 issued, unless otherwise pledged, may be pledged by the authority to payment of the
307 principal of and interest on revenue bonds of the authority as may be provided in any
308 resolution authorizing the issuance of such bonds or in any trust instrument pertaining to such
309 bonds, and such funds so pledged, from whatever source received, may include funds
310 received from one or more or all sources and may be set aside at regular intervals into
311 sinking funds for which provision may be made in any such resolution or trust instrument

312 and which may be pledged to and charged with the payment of the interest upon such
313 revenue bonds as such interest shall become due, the principal of the bonds as the same shall
314 mature, the necessary charges of any trustee or paying agent for paying such principal and
315 interest, and any premium upon bonds retired by call or purchase, and the use and disposition
316 of any sinking fund may be subject to such regulation as may be provided for in the
317 resolution authorizing the issuance of the bonds or in the trust instrument securing the
318 payment of the same.

319 **SECTION 14.**

320 Taxation status.

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

329 **SECTION 15.**

330 Immunity from tort actions.

331 The authority shall have the same immunity and exemption from liability for torts and
332 negligence as Worth County, and the officers, agents, and employees of the authority, when
333 in performance of work of the authority, shall have the same immunity and exemption from
334 liability for torts and negligence as officers, agents, and employees of Worth County. The

335 authority may be sued the same as private corporations on any contractual obligation of the
336 authority.

337 **SECTION 16.**

338 Property not subject to levy and sale.

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

340 **SECTION 17.**

341 Trust funds.

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

348 **SECTION 18.**

349 Construction.

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

352 **SECTION 19.**

353 Scope of operations.

354 The projects of the authority's operation shall be located in the territory embraced within the
355 jurisdictional limits of Worth County as the same now or may hereafter exist.

356 **SECTION 20.**

357 Conveyance of property upon dissolution.

358 Should the authority for any reason be dissolved after full payment of all bonded
359 indebtedness incurred under this Act, both as to principal and interest, title to all property of
360 any kind and nature, real and personal, held by the authority at the time of such dissolution
361 shall be conveyed to Worth County, or title to any such property may be conveyed prior to
362 such dissolution in accordance with provisions which may be made therefor in any resolution
363 or trust instrument relating to such property, subject to any liens, leases, or other
364 encumbrances outstanding against or in respect to said property at the time of such
365 conveyance.

366 **SECTION 21.**

367 Severability; effect of partial invalidity of Act.

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

373

SECTION 22.

374

General repealer.

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