

Senate Bill 637

By: Senator Brass of the 28th

**AS PASSED**

A BILL TO BE ENTITLED

AN ACT

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

S. B. 637

- 1 -

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

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

28 **SECTION 1.**

29 Short title.

30 This Act shall be known and may be cited as the "City of Senoia Building and Facilities  
31 Authority Act."

32 **SECTION 2.**

33 City of Senoia Building and Facilities Authority.

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

41 Chapter 17 of Title 50 of the O.C.G.A., the "Georgia State Financing and Investment  
42 Commission Act." The authority shall have its principal office in the City of Senoia, and its  
43 legal situs or residence for the purposes of this Act shall be the City of Senoia.

44 **SECTION 3.**

45 **Membership.**

46 The authority shall consist of five members who shall be eligible to succeed themselves and  
47 who shall be appointed by the mayor and council of the City of Senoia. The mayor and one  
48 councilmember shall serve as members of the authority. Any member of the authority who  
49 is a member of said mayor and council shall serve for a term of office concurrent with such  
50 person's term of office as a member of said mayor and council. Each member of the  
51 authority who is not a member of said mayor and council shall serve for a term of office of  
52 three years, except that the initial terms of office of those members first appointed to the  
53 authority shall be specified at the time of appointment to be one or two years. After such  
54 initial terms, those members who are not members of said mayor and council shall serve for  
55 terms of office of three years each. Members of the authority shall serve for the terms of  
56 office so specified and until the appointment and qualification of their respective successors.  
57 Vacancies on the authority shall be filled by said mayor and council for the remainder of the  
58 unexpired term and until the appointment and qualification of a successor. Immediately after  
59 their appointment, the members of the authority shall enter upon their duties. The authority  
60 shall elect one of its members as chairperson and one as vice chairperson. The  
61 secretary-treasurer of the authority shall be appointed by the authority and need not be a  
62 member of the authority. Three members of the authority shall constitute a quorum and no  
63 vacancy on the authority shall impair the right of the quorum to exercise all the rights and  
64 perform all the duties of the authority and, in every instance, a majority vote of a quorum  
65 shall authorize any legal act of the authority, including all things necessary to authorize and

66 issue revenue bonds. The members of the authority shall receive no compensation for their  
67 services but may be reimbursed by the authority for the actual expenses necessarily incurred  
68 in the performance of their duties. The authority shall make rules and regulations for its own  
69 government and shall have perpetual existence.

70 **SECTION 4.**

71 **Definitions.**

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

74 (1) "Authority" shall mean the City of Senoia Building and Facilities Authority created  
75 by this Act.

76 (2) "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, and other public  
79 property determined by the authority to be desirable for the efficient operation of any  
80 department, board, office, commission, or agency of the City of Senoia, Coweta County,  
81 or the State of Georgia in the performance of their governmental, proprietary, and  
82 administrative functions.

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

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

95 **SECTION 5.**

96 Powers.

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

100 (1) To sue and be sued;

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

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

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

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

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

142 upon default, on such obligations, either in payment of principal or interest or in the  
143 performance of any term or condition, as are contained in such agreement or indenture;  
144 (15) To borrow money for any of its corporate purposes, to issue revenue bonds payable  
145 solely from funds pledged for that purpose, and to provide for the payment of the same  
146 and for the rights of the holders thereof;

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

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

169 purpose, and such bonds and all income therefrom shall be exempt from all taxation  
170 within the State of Georgia. For the purpose of the exemption from taxation of such  
171 bonds and the income therefrom, the authority shall be deemed to be a political  
172 subdivision of the State of Georgia.

173 **SECTION 6.**

174 Credit not pledged and debt not created by bonds.

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

186 **SECTION 7.**

187 Trust agreement.

188 In the discretion of the authority, any issue of revenue bonds may be secured by an  
189 agreement or indenture made by the authority with a corporate trustee, which may be any  
190 trust company or bank having the powers of a trust company within or without the State of  
191 Georgia. Such trust agreement or indenture may pledge and assign rents, fees, charges,



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

212

**SECTION 8.**

213

## Refunding bonds.

214 The authority is authorized to provide by resolution for the issuance of revenue bonds of the  
215 authority for the purpose of calling, refunding, or refinancing any revenue bonds issued  
216 under the provisions of this Act and then outstanding and to include in the amount of such

217 refunding bonds all interest and any call premiums that may be required for the redemption  
218 and refunding of such outstanding bonds.

219

**SECTION 9.**

220

Venue of actions, jurisdiction.

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

226

**SECTION 10.**

227

Revenue bond validation.

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

238

**SECTION 11.**

239

Interest of bondholders protected.

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

246

**SECTION 12.**

247

Revenues, earnings, rents, and charges; use.

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

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

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

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

288 authority may enforce performance by any legal or equitable process against the tenants or  
289 lessees.

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

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

297

### **SECTION 13.**

298

#### **Sinking fund.**

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

313 resolution authorizing the issuance of the bonds or in the trust instrument securing the  
314 payment of the same.

315 **SECTION 14.**

316 Taxation status.

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

325 **SECTION 15.**

326 Immunity from tort actions.

327 The authority shall have the same immunity and exemption from liability for torts and  
328 negligence as a Georgia county, and the officers, agents, and employees of the authority,  
329 when in performance of work of the authority, shall have the same immunity and exemption  
330 from liability for torts and negligence as officers, agents, and employees of a Georgia county.  
331 The authority may be sued the same as private corporations on any contractual obligation of  
332 the authority.

333 **SECTION 16.**

334 Property not subject to levy and sale.

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

336 **SECTION 17.**

337 Trust funds.

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

344 **SECTION 18.**

345 Construction.

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

348 **SECTION 19.**

349 Scope of operations.

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

352

**SECTION 20.**

353

Conveyance of property upon dissolution.

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

362

**SECTION 21.**

363

Severability; effect of partial invalidity of Act.

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

369

**SECTION 22.**

370

General repealer.

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