

House Bill 1174 (AS PASSED HOUSE AND SENATE)

By: Representatives Dickerson of the 113<sup>th</sup>, Belton of the 112<sup>th</sup>, Rutledge of the 109<sup>th</sup>, and Welch of the 110<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Newton County Public Facilities Authority and to provide for the appointment  
2 of members of the authority; to provide for a short title; to confer powers upon the authority;  
3 to provide for purpose and scope of operations of the authority; to provide for definitions;  
4 to authorize the issuance of revenue bonds of the authority; to fix and provide the venue and  
5 jurisdiction of actions relating to any provisions of this Act; to provide for moneys received  
6 and trust funds; to provide for tort immunity; to provide for tax exemption, rates, charges,  
7 and revenues; to provide for effect on other governments; to provide for construction of act  
8 and severability; to provide for related matters; to provide for an effective date; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Short title.

13 This Act shall be known and may be cited as the "Newton County Public Facilities Authority  
14 Act."

15 **SECTION 2.**

16 Newton County Public Facilities Authority.

17 (a) There is hereby created a public body corporate and politic to be known as the "Newton  
18 County Public Facilities Authority," which shall be deemed to be a political subdivision of  
19 the state and a public corporation, and by that name, style, and title such body may contract  
20 and be contracted with, sue and be sued, implead and be impleaded, and complain and defend  
21 in all courts of law and equity. The authority shall have perpetual existence.

22 (b) The authority shall consist of five members who shall be appointed by the Board of  
23 Commissioners of Newton County. Members of the Board of Commissioners of Newton

24 County may be appointed to the authority. With respect to the initial appointment, two  
 25 members shall be appointed for a term of three years, two members shall be appointed for  
 26 a term of two years, and one member shall be appointed for a term of one year. Thereafter,  
 27 all appointments shall be made for terms of three years and until successors are appointed  
 28 and qualified. Immediately after such appointments, the members of the authority shall enter  
 29 upon their duties. To be eligible for appointment as a member of the authority, a person shall  
 30 be at least 21 years of age and a resident of Newton County, Georgia, for at least two years  
 31 prior to the date of his or her appointment and shall not have been convicted of a felony.  
 32 Any member of the authority may be selected and appointed to succeed himself or herself.  
 33 (c) The members shall not be compensated for their services; provided, however, that such  
 34 members shall be reimbursed for their actual expenses necessarily incurred in the  
 35 performance of their duties.  
 36 (d) The members of the authority shall elect one of their number as chairperson and another  
 37 as vice chairperson. The members of the authority shall also elect a secretary, who need not  
 38 be a member of the authority, and may also elect a treasurer, who need not be a member of  
 39 the authority. The secretary may also serve as treasurer. If the secretary and treasurer are not  
 40 members of the authority, such officers shall have no voting rights; and each shall serve for  
 41 a period of one year and until their successors are duly elected and qualified.  
 42 (e) Three members of the authority shall constitute a quorum. No vacancy on the authority  
 43 shall impair the right of the quorum to exercise all of the rights and perform all of the duties  
 44 of the authority.

### 45 SECTION 3.

#### 46 Definitions.

47 As used in this Act, the term:

- 48 (1) "Authority" means the Newton County Public Facilities Authority created by this  
 49 Act.  
 50 (2) "Costs of the project" means and embraces the cost of construction; the cost of all  
 51 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and  
 52 equipment; financing charges; interest prior to and during construction and for six months  
 53 after completion of construction; the cost of engineering, architectural, fiscal agents'  
 54 expenses, legal expenses, plans and specifications, and other expenses necessary or  
 55 incidental to determining the feasibility or practicability of the project; administrative  
 56 expenses and such other expenses as may be necessary or incidental to the financing  
 57 authorized in this Act; working capital; and all other costs necessary to acquire, construct,  
 58 add to, extend, improve, equip, operate, and maintain the project.

59 (3) "Project" means all buildings, facilities, and equipment necessary or convenient for  
 60 the efficient operation of the county, the Newton County School System, or any  
 61 municipality within the county, or any department, agency, division, or commission  
 62 thereof permitted by the Revenue Bond Law.

63 (4) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the  
 64 "Revenue Bond Law."

65 (5) "Revenue bonds" means revenue bonds authorized to be issued pursuant to the  
 66 Revenue Bond Law.

67 (6) "Self-liquidating" means any project from which the revenues and earnings to be  
 68 derived by the authority therefrom, including, but not limited to, any contractual  
 69 payments with governmental or private entities, and all properties used, leased, and sold  
 70 in connection herewith, together with any grants, will be sufficient to pay the costs of  
 71 operating, maintaining, and repairing the project and to pay the principal and interest on  
 72 the revenue bonds or other obligations which may be issued for the purpose of paying the  
 73 costs of the project.

74 (7) "State" means the State of Georgia.

#### 75 **SECTION 4.**

#### 76 **Powers.**

77 The authority shall have the power:

78 (1) To have a seal and alter the same at its pleasure;

79 (2) To acquire by purchase, lease, gift, condemnation, or otherwise and to hold, operate,  
 80 maintain, lease, and dispose of real and personal property of every kind and character for  
 81 its corporate purposes;

82 (3) To appoint, select, and employ officers, agents, and employees, including  
 83 engineering, architectural, and construction experts, fiscal agents, and attorneys, and to  
 84 fix their respective compensations;

85 (4) To execute contracts, leases, installment sale agreements, and other agreements and  
 86 instruments necessary or convenient in connection with the acquisition, construction,  
 87 addition, extension, improvement, equipping, operation, or maintenance of a project; and  
 88 any and all persons, firms, corporations, and Newton County are hereby authorized to  
 89 enter into contracts, leases, installment sale agreements, and other agreements or  
 90 instruments with the authority upon such terms and for such purposes as they deem  
 91 advisable and as they are authorized by law;

92 (5) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,  
 93 and dispose of projects;

- 94 (6) To pay the costs of the project with the proceeds of revenue bonds or other  
 95 obligations issued by the authority or from any grant or contribution from the United  
 96 States or any agency or instrumentality thereof or from this state or any agency or any  
 97 instrumentality or other political subdivision thereof or from any other source  
 98 whatsoever;
- 99 (7) To accept loans or grants of money, materials, or property of any kind from the  
 100 United States or any agency or instrumentality thereof, upon such terms and conditions  
 101 as the United States or such agency or instrumentality may require;
- 102 (8) To accept loans or grants of money, materials, or property of any kind from this state  
 103 or any agency or instrumentality or political subdivision or municipal corporation thereof,  
 104 upon such terms and conditions as this state or such agency or instrumentality or political  
 105 subdivision or municipal corporation may require;
- 106 (9) To borrow money for any of its corporate purposes, to issue revenue bonds, and to  
 107 provide for the payment of the same and for the rights of the holders thereof;
- 108 (10) To exercise any power usually possessed by private corporations performing similar  
 109 functions, including the power to incur short-term debt and to approve, execute, and  
 110 deliver appropriate evidence of any such indebtedness;
- 111 (11) To prescribe rules, regulations, service policies, and procedures for the operation  
 112 of any project;
- 113 (12) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the  
 114 manner in which its business is transacted; and
- 115 (13) To do all things necessary or convenient to carry out the powers expressly given in  
 116 this Act.

117 **SECTION 5.**

118 Revenue bonds.

119 The authority, or any authority or body which has or which may in the future succeed to the  
 120 powers, duties, and liabilities vested in the authority created by this Act, shall have power  
 121 and is authorized, pursuant to the Revenue Bond Law, to provide by resolution for the  
 122 issuance of revenue bonds of the authority for the purpose of paying all or any part of the  
 123 costs of a project and for the purpose of refunding revenue bonds or other obligations  
 124 previously issued; provided, however, that no such revenue bonds shall be issued to finance  
 125 a project for the Newton County School District or any other political subdivision or  
 126 municipal corporation of the state located within Newton County other than Newton County  
 127 without the approval of the board of commissioners. Revenue bonds shall be undertaken,

128 issued, priced, validated, sold, paid, redeemed, refunded, secured, and replaced in accordance  
129 with the provisions of the Revenue Bond Law.

130 **SECTION 6.**

131 Revenue bonds; conditions precedent to issuance.

132 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the  
133 resolution, the authority shall determine that the project financed with the proceeds of such  
134 revenue bonds is self-liquidating. Revenue bonds may be issued without any other  
135 proceedings or the happening of any other conditions or things other than those proceedings,  
136 conditions, and things which are specified or required by this Act. Any resolution providing  
137 for the issuance of revenue bonds under the provisions of this Act shall become effective  
138 immediately upon its passage and need not be published or posted, and any such resolution  
139 may be passed at any regular, special, or adjourned meeting of the authority by a majority  
140 of its members present and voting.

141 **SECTION 7.**

142 Credit not pledged.

143 Revenue bonds of the authority shall not be deemed to constitute a debt of Newton County,  
144 the Newton County School System, any municipality located within the county, or the State  
145 of Georgia, nor a pledge of the faith and credit of this state or such county, but such revenue  
146 bonds shall be payable solely from the fund hereinafter provided for. The issuance of such  
147 revenue bonds shall not directly, indirectly, or contingently obligate this state or such county  
148 to levy or pledge any form of taxation whatsoever for payment of such revenue bonds or to  
149 make any appropriation for their payment, and all such revenue bonds shall contain recitals  
150 on their face covering substantially the foregoing provisions of this section.  
151 Notwithstanding the foregoing provisions, this Act shall not affect the ability of the authority  
152 and any political subdivision to enter into an intergovernmental contract pursuant to which  
153 the political subdivision agrees to pay amounts sufficient to pay operating charges and other  
154 costs of the authority or any project including, without limitation, the principal of and interest  
155 on revenue bonds in consideration for services or facilities of the authority.

156

**SECTION 8.**

157

Trust indenture as security.

158 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust  
 159 indenture by and between the authority and a corporate trustee, which may be any trust  
 160 company or bank having the powers of a trust company within or without this state. Either  
 161 the resolution providing for the issuance of the revenue bonds or such trust indenture may  
 162 contain such provisions for protecting and enforcing the rights and remedies of the  
 163 bondholders as may be reasonable and proper and not in violation of law, including  
 164 covenants setting forth the duties of the authority in relation to the acquisition and  
 165 construction of the project, the maintenance, operation, repair, and insuring of the project,  
 166 and the custody, safeguarding, and application of all money.

167

**SECTION 9.**

168

Trust indenture as security, remedies of bondholders.

169 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the  
 170 extent that the rights given herein may be restricted by resolution passed before the issuance  
 171 of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,  
 172 mandamus, or other proceedings, protect and enforce any and all rights it may have under  
 173 the laws of the state, including specifically, but without limitation, the Revenue Bond Law,  
 174 or granted hereunder or under such resolution or trust indenture and may enforce and compel  
 175 performance of all duties required by this Act or by such resolution or trust indenture to be  
 176 performed by the authority or any officer thereof, including the fixing, charging, and  
 177 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and  
 178 services furnished.

179

**SECTION 10.**

180

Trust indenture as security; validation.

181 Revenue bonds and the security therefor shall be issued, confirmed, and validated in  
 182 accordance with the provisions of the Revenue Bond Law. The petition for validation shall  
 183 also make Newton County, the Newton County School System, or any municipality within  
 184 the county, party defendant to such action if such government has contracted with the  
 185 authority for services or facilities relating to the project for which revenue bonds are to be  
 186 issued and sought to be validated, and such defendant shall be required to show cause, if any  
 187 exists, as to why such contract or contracts shall not be adjudicated as a part of the basis for

188 the security for the payment of any such revenue bonds. The revenue bonds, when validated,  
189 and the judgment of validation shall be final and conclusive with respect to such revenue  
190 bonds and the security for the payment thereof and interest thereon and against the authority  
191 and all other defendants.

192 **SECTION 11.**

193 To whom proceeds of bonds shall be paid.

194 In the resolution providing for the issuance of revenue bonds or in the trust indenture, the  
195 authority shall provide for the payment of the proceeds of the sale of the revenue bonds to  
196 any officer or person who, or any agency, bank, or trust company which, shall act as trustee  
197 of such funds and shall hold and apply the same to the purposes thereof, subject to such  
198 regulations as this Act and such resolution or trust indenture may provide.

199  
200 **SECTION 12.**

201 Sinking fund.

202 The money received pursuant to an intergovernmental contract and the revenues, fees, tolls,  
203 fines, charges, and earnings derived from any particular project or projects, regardless of  
204 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a  
205 particular project for which revenue bonds have been issued, unless otherwise pledged and  
206 allocated, may be pledged and allocated by the authority to the payment of the principal and  
207 interest on revenue bonds of the authority as the resolution authorizing the issuance of the  
208 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever  
209 source received may be set aside at regular intervals as may be provided in the resolution or  
210 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with  
211 the payment of:

- 212 (1) The interest upon such revenue bonds as the same shall fall due;  
213 (2) The principal or purchase price of such revenue bonds as the same shall fall due;  
214 (3) Any premium upon such revenue bonds as the same shall fall due;  
215 (4) The purchase of such revenue bonds in the open market; and  
216 (5) The necessary charges of the paying agent for paying principal and interest.

217 The use and disposition of such sinking fund shall be subject to such regulations as may be  
218 provided in the resolution authorizing the issuance of the revenue bonds or in the trust  
219 indenture, but, except as may otherwise be provided in such resolution or trust indenture,  
220 such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds  
221 without distinction or priority of one over another.

222 **SECTION 13.**

223 Venue and jurisdiction.

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

229 **SECTION 14.**

230 Interest of bondholders protected.

231 While any of the revenue bonds issued by the authority remain outstanding, the powers,  
232 duties, or existence of such authority or its officers, employees, or agents shall not be  
233 diminished or impaired in any manner that will affect adversely the interests and rights of the  
234 holders of such revenue bonds; and no other entity, department, agency, or authority shall  
235 be created which will compete with the authority to such an extent as to affect adversely the  
236 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete  
237 with the authority. The provisions of this Act shall be for the benefit of the authority and the  
238 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the  
239 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

240 **SECTION 15.**

241 Money received considered trust funds.

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

245 **SECTION 16.**

246 Purpose of the authority; reversion upon dissolution.

247 (a) The authority is created for the purpose of promoting the public good and general welfare  
248 of the citizens of the Newton County, and financing and providing facilities, equipment, and  
249 services within the county, for sale to, lease or sublease to, ownership, or operation by the  
250 county, county school district, or any municipality located within the county, as otherwise  
251 authorized by law.



252 (b) Upon the dissolution of the authority, all assets owned by the authority shall become the  
253 property of the county.

254 **SECTION 17.**

255 Rates, charges, and revenues; use.

256 The authority is hereby authorized to prescribe and fix rates and to revise same from time to  
257 time and to collect revenues, tolls, fees, and charges for the services, facilities, and  
258 commodities furnished and, in anticipation of the collection of the revenues, to issue revenue  
259 bonds or other types of obligations as provided in this Act to finance, in whole or in part, the  
260 costs of the project and to pledge to the punctual payment of said revenue bonds or other  
261 obligations all or any part of the revenues.

262 **SECTION 18.**

263 Tort immunity.

264 To the extent permitted by law, the authority shall have the same immunity and exemption  
265 from liability for torts and negligence as Newton County; and the officers, agents, and  
266 employees of the authority when in the performance of the work of the authority shall have  
267 the same immunity and exemption from liability for torts and negligence as the officers,  
268 agents, and employees of Newton County when in the performance of their public duties or  
269 work of the county.

270 **SECTION 19.**

271 Tax exemption.

272 The income of the authority, the properties of the authority, both real and personal, and all  
273 revenue bonds, certificates of participation, notes, and other forms of obligations issued by  
274 the authority shall be exempt from all state and local taxes and special assessments of any  
275 kind to the extent permitted by and in accordance with the general laws of the state.

276 **SECTION 20.**

277 Effect on other governments.

278 This Act shall not and does not in any way take from Newton County, the Newton County  
279 School System, or any county or municipal corporation the authority to own, operate, and  
280 maintain public facilities or to issue revenue bonds as provided by the Revenue Bond Law.

281 **SECTION 21.**

282 Liberal construction of Act.

283 This Act, being for the welfare of various political subdivisions of this state and its  
284 inhabitants, shall be liberally construed to effect the purposes hereof.

285 **SECTION 22.**

286 Severability; effect of partial invalidity of Act.

287 The provisions of this Act are severable, and if any of its provisions shall be held  
288 unconstitutional by any court of competent jurisdiction, the decision of such court shall not  
289 affect or impair any of the remaining provisions.

290 **SECTION 23.**

291 Effective date.

292 This Act shall become effective upon its approval by the Governor or upon its becoming law  
293 without such approval.

294 **SECTION 24.**

295 General repealer.

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