

House Bill 533 (AS PASSED HOUSE AND SENATE)

By: Representative Yeara of the 152nd

A BILL TO BE ENTITLED
AN ACT

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

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Short title.

14 This Act shall be known and may be cited as the "City of Sylvester Public Facilities
15 Authority Act."

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SECTION 2.

City of Sylvester Public Facilities Authority; creation.

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

(b) The authority shall consist of five members who shall be appointed by the city council of the City of Sylvester. The city manager of the City of Sylvester shall serve as an ex officio member of the authority and shall be the secretary of the authority. All appointed members shall be appointed for a term of one year until successors are appointed and qualified. Thereafter, all appointments shall be made annually at the expiration of each one-year term and the previous year's appointees shall continue to serve until their successors are appointed and qualified. Immediately after being appointed, the members of the authority shall enter upon their duties. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age, shall be a resident of the city for at least six months prior to the date of his or her appointment and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself.

(c) The members of the authority shall not be compensated for their services; provided, however, that the members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

(d) The members of the authority shall elect one of their number as chairperson and another as a vice chairperson. The members of the authority may also elect a treasurer, who need not be a member of the authority. The secretary may also serve as treasurer. If the treasurer is not a member of the authority, such officer shall have no voting rights. Except for the

42 secretary, each of such officers shall serve for a period of one year and until their successors
43 are duly elected and qualified.

44 (e) Three members of the authority shall constitute a quorum. No vacancy on the authority
45 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
46 of the authority.

47 (f) Any member of the authority can be removed by a majority vote of the city council. The
48 city council shall fill such vacancy within three months of removal of any member. If a
49 member resigns or is unable to diligently perform his or her duties, the city council shall
50 declare the seat vacant and shall fill such vacancy within three months' time of resignation.

51 **SECTION 3.**

52 Purpose of the authority; scope of operations.

53 Without limiting the generality of any provision of this Act, the general purpose of the
54 authority is declared to be that of providing buildings, facilities, equipment, and certain
55 services for corporate purposes for the citizens of the city located both within and outside the
56 city.

57 **SECTION 4.**

58 Definitions.

59 As used in this Act, the term:

60 (1) "Authority" means the City of Sylvester Public Facilities Authority created by this
61 Act.

62 (2) "City" means the City of Sylvester, Georgia.

63 (3) "Costs of the project" means and embraces the cost of construction; the cost of all
64 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and

65 equipment; financing charges; interest prior to and during construction and for six months
66 after completion of construction; the cost of engineering, architectural, fiscal agents'
67 expenses, legal expenses, plans and specifications, and other expenses necessary or
68 incidental to determining the feasibility or practicability of the project; administrative
69 expenses and such other expenses as may be necessary or incidental to the financing
70 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
71 add to, extend, improve, equip, operate, and maintain the project.

72 (4) "Project" means all buildings, facilities, services, and equipment necessary or
73 convenient for the efficient operation of the city or any department, agency, division,
74 commission, or utility system thereof, permitted by the Revenue Bond Law, provided that
75 such services shall not include electric power generation and transmission services.

76 (5) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia
77 (codified in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended), or any
78 other similar law hereinafter enacted.

79 (6) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

80 (7) "Self-liquidating" means any project which the revenues and earnings to be derived
81 by the authority therefrom, including, but not limited to, any contractual payments with
82 governmental or private entities, and all properties used, leased, and sold in connection
83 herewith, together with any grants and any other available funds, will be sufficient to pay
84 the costs of operating, maintaining, and repairing the project and to pay the principal and
85 interest on the revenue bonds or other obligations which may be issued for the purpose
86 of paying the costs of the project.

87 (8) "State" means the State of Georgia.

SECTION 5.**Powers.**

90 The authority shall have the power:

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

92 (2) To acquire by purchase, lease, gift, condemnation, or otherwise, and with or without
93 consideration, to hold, operate, maintain, lease, and dispose of real and personal property
94 of every kind and character for its corporate purposes or on behalf of the city;

95 (3) To acquire in its own name by purchase, on such terms and conditions and in such
96 manner as it may deem proper, or by condemnation in accordance with the provisions of
97 any and all existing laws applicable to the condemnation of property for public use, real
98 property or rights or easements therein, or franchises necessary or convenient for its
99 corporate purposes, and to use the same so long as its corporate existence shall continue,
100 and to lease or make contracts with respect to the use of or disposition of the same in any
101 manner it deems to the best advantage of the authority, the authority being under no
102 obligation to accept and pay for any property condemned under this Act, except from the
103 funds provided under the authority of this Act, and in any proceedings to condemn, such
104 orders may be made by the court having jurisdiction of the suit, action, or proceedings
105 as may be just to the authority and to the owners of the property to be condemned, and
106 no property shall be acquired under the provisions of this Act upon which any lien or
107 encumbrance exists, unless at the time such property is so acquired a sufficient sum of
108 money is to be deposited in trust to pay and redeem the fair value of such lien or
109 encumbrance;

110 (4) To acquire, construct, add to, extend, improve, equip, operate, maintain, lease, and
111 dispose of projects anywhere within Worth County;

112 (5) To execute contracts, leases, installment sale agreements, and other agreements and
113 instruments necessary or convenient in connection with the acquisition, construction,

- 114 addition, extension, improvement, equipping, operation, maintenance, disposition, or
115 financing of a project;
- 116 (6) To appoint, select, and employ officers, agents, and employees, including, but not
117 limited to, engineering, architectural, and construction experts; fiscal agents; and
118 attorneys; and to fix their respective compensations;
- 119 (7) To pay the costs of the project with the proceeds of revenue bonds, certificates of
120 participation, notes, or other forms of obligations issued by the authority or from any
121 grant or contribution from the United States of America or any agency or instrumentality
122 thereof or from the state or any agency, instrumentality, municipality, or political
123 subdivision thereof, from any private foundation or other private source or from any other
124 source whatsoever;
- 125 (8) To pledge to the payment of revenue bonds, certificates of participation, notes, and
126 other forms of obligations issued by the authority any and all revenues and properties of
127 the authority, both real and personal;
- 128 (9) To accept loans or grants of money or materials or property of any kind from the
129 United States of America or any agency or instrumentality thereof, upon such terms and
130 conditions as the United States of America or such agency or instrumentality may
131 require;
- 132 (10) To accept loans or grants of money or materials or property of any kind from the
133 state or any agency, instrumentality, municipality, or political subdivision thereof, upon
134 such terms and conditions as the state or such agency, instrumentality, municipality, or
135 political subdivision may require;
- 136 (11) To accept loans or grants of money or materials or property of any kind from any
137 public or private foundation or any other private source upon such terms and conditions
138 as such public or private foundation or other private source may require;
- 139 (12) To borrow money for any of its corporate purposes and to issue or execute revenue
140 bonds, certificates of participation, notes, and other forms of obligations, deeds to secure

141 debt, security agreements, and such other instruments as may be necessary or convenient
142 to evidence and secure such borrowing;

143 (13) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
144 manner in which its business is transacted;

145 (14) To prescribe rules, regulations, service policies, and procedures for the operation
146 of any project; and

147 (15) To do all things necessary or convenient to carry out the powers expressly given in
148 this Act.

149 **SECTION 6.**

150 Revenue bonds.

151 The authority shall have power and is hereby authorized to provide by resolution for the
152 issuance of revenue bonds for the purpose of paying all or any part of the costs of the project
153 and for the purpose of refunding revenue bonds or other obligations previously issued. The
154 principal of and interest on such revenue bonds shall be payable solely from the revenues and
155 properties pledged to the payment of such revenue bonds. The revenue bonds issued by the
156 authority shall contain such terms as the authority shall determine are in the best interest of
157 the authority; provided, however, that no revenue bonds shall have a maturity exceeding 40
158 years.

159 **SECTION 7.**

160 Same; signatures; seal.

161 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
162 vice-chairperson of the authority, the attesting manual or facsimile signature of the secretary
163 or secretary-treasurer of the authority, and the official seal of the authority shall be impressed

164 or imprinted thereon. In case any officer whose signature shall appear on any revenue bond
165 shall cease to be such officer before the delivery of such revenue bond, such signature shall
166 nevertheless be valid and sufficient for all purposes, the same as if that person had remained
167 in office until such delivery.

168 **SECTION 8.**

169 Same; negotiability; exemption from taxation.

170 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
171 of negotiable instruments under the laws of the state. All revenue bonds, their transfer, and
172 the income therefrom shall be exempt from all taxation within the state as provided by the
173 Revenue Bond Law.

174 **SECTION 9.**

175 Same; conditions precedent to issuance.

176 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
177 resolution, the authority shall determine that the project financed or refinanced with the
178 proceeds of the revenue bonds is self-liquidating. Revenue bonds may be issued without any
179 other proceedings or the happening of any other conditions or things other than those
180 proceedings, conditions, and things which are specified or required by this Act. Any
181 resolution providing for the issuance of revenue bonds under the provisions of this Act shall
182 become effective immediately upon its adoption and need not be published or posted, and
183 any such resolution may be adopted at any regular or special meeting of the authority by a
184 majority of its members.

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SECTION 10.

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Same; credit not pledged.

187 Revenue bonds shall not be deemed to constitute a debt of the state or the city nor a pledge
188 of the faith and credit of the state or the city. Revenue bonds shall be payable solely from
189 the revenues and properties pledged to the payment of such revenue bonds. The issuance of
190 revenue bonds shall not directly, indirectly, or contingently obligate the state or the city to
191 levy or to pledge any form of taxation whatsoever for the payment of such revenue bonds or
192 to make any appropriation for their payment. All revenue bonds shall contain recitals on
193 their face covering substantially the foregoing provisions of this section. Notwithstanding
194 the foregoing provisions, this Act shall not affect the ability of the authority and the city to
195 enter into an intergovernmental contract pursuant to which the city agrees to pay amounts
196 sufficient to pay operating charges and other costs of the authority or any project including,
197 without limitation, the principal of and interest on revenue bonds, in consideration for
198 services, facilities, or equipment of the authority.

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SECTION 11.

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Same; trust indenture as security.

201 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
202 indenture by and between the authority and a corporate trustee, which may be any trust
203 company or bank having the powers of a trust company within or without the state. Such
204 trust indenture may contain such provisions for protecting and enforcing the rights and
205 remedies of the bondholders as may be reasonable and proper and not in violation of law,
206 including covenants setting forth the duties of the authority in relation to the acquisition and
207 construction of the project, the maintenance, operation, repair, and insuring of the project,
208 and the custody, safeguarding, and application of all moneys.

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SECTION 12.

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Same; trust indenture as security; remedies of bondholders.

211 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the
212 extent the rights herein given may be restricted by resolution passed before the issuance of
213 the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,
214 mandamus, or other proceedings, protect and enforce any and all rights it may have under
215 the laws of the state, including specifically, but without limitation, the Revenue Bond Law,
216 or granted hereunder or under such resolution or trust indenture, and may enforce and compel
217 performance of all duties required by this Act or by such resolution or trust indenture to be
218 performed by the authority or any officer thereof, including the fixing, charging, and
219 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and
220 services furnished.

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SECTION 13.

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Same; validation.

223 Revenue bonds and the security therefor shall be issued, confirmed, and validated in
224 accordance with the provisions of the Revenue Bond Law. The petition for validation shall
225 also make the city party defendant to such action if the city has contracted with the authority
226 for services or facilities relating to the project for which revenue bonds are to be issued and
227 sought to be validated, and such defendant shall be required to show cause, if any exists, as
228 to why such contract or contracts shall not be adjudicated as a part of the basis for the
229 security for the payment of any such revenue bonds. The revenue bonds when validated, and
230 the judgment of validation, shall be final and conclusive with respect to such revenue bonds
231 and the security for the payment thereof and interest thereon and against the authority and
232 all other defendants.

233 **SECTION 14.**

234 Same; interest of bondholders protected.

235 While any of the revenue bonds issued by the authority remain outstanding, the powers,
236 duties, or existence of the authority or its officers, employees, or agents, shall not be
237 diminished or impaired in any manner that will affect adversely the interests and rights of the
238 holders of such revenue bonds, and no other entity, department, agency, or authority will be
239 created which will compete with the authority to such an extent as to affect adversely the
240 interest and rights of the holders of such revenue bonds. The provisions of this Act shall be
241 for the benefit of the authority and the holders of any such revenue bonds under the
242 provisions hereof shall constitute a contract with the holders of such revenue bonds.

243 **SECTION 15.**

244 Venue and jurisdiction.

245 Any action to protect or enforce any rights under the provisions of this Act or any suit or
246 action against such authority shall be brought in the Superior Court of Worth County,
247 Georgia, and any action pertaining to validation of any revenue bonds issued under the
248 provisions of this Act shall likewise be brought in such court, which shall have exclusive,
249 original jurisdiction of such actions.

250 **SECTION 16.**

251 Moneys received considered trust funds.

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

255 **SECTION 17.**

256 Tort immunity.

257 To the extent permitted by law, the authority shall have the same immunity and exemption
258 from liability for torts and negligence as the city. The officers, agents, and employees of the
259 authority when in the performance of the work of the authority shall have the same immunity
260 and exemption from liability for torts and negligence as the officers, agents, and employees
261 of the city when in the performance of their public duties or work of the city.

262 **SECTION 18.**

263 Tax exemption.

264 To the extent permitted by and in accordance with the laws of the state, the income of the
265 authority, the properties of the authority, both real and personal, and all revenue bonds,
266 certificates of participation, notes, and other forms of obligations issued by the authority shall
267 be exempt from all state and local taxes and special assessments of any kind.

268 **SECTION 19.**

269 Rates, charges, and revenues; use.

270 The authority is hereby authorized to prescribe and fix rates and to revise same from time to
271 time and to collect revenues, tolls, fees, and charges for the services, facilities, and
272 commodities furnished, and in anticipation of the collection of the revenues, to issue revenue
273 bonds, certificates of participation, notes, or other types of obligations as herein provided to
274 finance, in whole or in part, the costs of the project, and to pledge to the punctual payment
275 of such revenue bonds or other obligations, all or any part of the revenues. Provided that

276 nothing in this Act shall authorize the authority to set end user or customer rates or charges
277 for any utility system operated by the City of Sylvester.

278 **SECTION 20.**

279 Effect on other governments.

280 This Act shall not and does not in any way take from the city or any political subdivision the
281 authority to own, operate, and maintain public facilities or to issue revenue bonds as provided
282 by the Revenue Bond Law.

283 **SECTION 21.**

284 Liberal construction of act.

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

287 **SECTION 22.**

288 Severability; effect of partial invalidity of act.

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

292 **SECTION 23.**

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

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SECTION 24.

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