House Bill 753 (AS PASSED HOUSE AND SENATE)
By: Representatives Smith of the 70th, Jenkins of the 132nd, Bonner of the 72nd, and Singleton of the 71st

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Short title.

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

H. B. 753

- 1 -
SECTION 2.

Coweta County Public Facilities Authority.

(a) There is hereby created a public body corporate and politic to be known as the "Coweta County 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 such 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 is created for the purpose of promoting the public good and general welfare of the citizens of the county, financing and providing facilities, equipment, and services within the county, for sale to, lease or sublease to, ownership, or operation by the county as otherwise authorized by law. In connection with the exercise of any of its powers, the members of the authority may make findings or determinations that the exercise of its powers as proposed will promote the public good and general welfare and will assist public bodies in providing facilities, equipment, and services within the county.

SECTION 3.

Definitions.

As used in this Act, the term:

(1) "Authority" means the Coweta County Public Facilities Authority created by this Act.

(2) "Costs of the project" means and embraces the cost of construction; the cost of all lands, properties, rights, easements, and franchises acquired; the cost of all machinery and equipment; financing charges; interest prior to and during construction and for six months after completion of construction; the cost of engineering, architectural, fiscal agents' expenses, legal expenses, plans and specifications, and other expenses necessary or incidental to determining the feasibility or practicability of the project; administrative
expenses and such other expenses as may be necessary or incidental to the financing
authorized in this Act; working capital; and all other costs necessary to acquire, construct,
add to, extend, improve, equip, operate, and maintain the project.

(3) "County" means Coweta County, Georgia, or its successor.

(4) "Project" means:

(A) All land, buildings, facilities, and equipment necessary or convenient for the
efficient operation of:

   (i) The county or any department, agency, division, or commission thereof;
   (ii) The Coweta County School System; or
   (iii) Any municipal corporation within the county; and

(B) Any undertaking permitted by the Revenue Bond Law.

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

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

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

(8) "State" means the State of Georgia.
SECTION 4.

Members of the authority; terms of office.

(a) The authority shall consist of five members who shall be appointed by the Board of Commissioners of Coweta County. Members of the Board of Commissioners of Coweta County may be appointed to the authority. With respect to the initial appointments, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all appointments shall be made for terms of three years and until successors are appointed and qualified. Immediately after such appointments, 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 and a resident of Coweta County, Georgia, for at least two years 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.

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

(c) The members of the authority shall elect one of their number as chairperson and another as vice chairperson. The members of the authority shall also elect a secretary, who need not be a member of the authority, and may also elect a treasurer, who need not be a member of the authority. The secretary may also serve as treasurer. If the secretary and treasurer are not members of the authority, such officers shall have no voting rights. Each officer shall serve for a period of one year and until their successors are duly elected and qualified.
(d) Three members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all of the rights and perform all of the duties of the authority.

(e) A majority vote by the authority shall be defined as affirmation of at least three members.

SECTION 5.

Powers.

The authority shall have the power:

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

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

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

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

(5) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease, and dispose of projects;
(6) To pay the costs of the project with the proceeds of revenue bonds or other obligations issued by the authority or from any grant or contribution from the United States or any agency or instrumentality thereof or from this state or any agency or instrumentality or political subdivision or municipal corporation thereof or from any other source whatsoever;

(7) To accept loans or grants of money, materials, or property of any kind from the United States or any agency or instrumentality thereof, upon such terms and conditions as the United States or such agency or instrumentality may require;

(8) To accept loans or grants of money, materials, or property of any kind from this state or any agency or instrumentality or political subdivision or municipal corporation thereof, upon such terms and conditions as this state or such agency or instrumentality or political subdivision or municipal corporation may require;

(9) To borrow money for any of its corporate purposes, to issue revenue bonds, and to provide for the payment of the same and for the rights of the holders thereof;

(10) To pledge the payment of revenue bonds, notes, and other forms of obligations issued by the authority and any and all revenue and properties of the authority, both real and personal;

(11) To exercise any power usually possessed by private corporations performing similar functions, including the power to incur short-term debt and to approve, execute, and deliver appropriate evidence of any such indebtedness;

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

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

(14) To do all things necessary or convenient to carry out the powers expressly given in this Act.
SECTION 6.

Revenue bonds.

The authority, or any authority or body which has or which may in the future succeed to the powers, duties, and liabilities vested in the authority created by this Act, shall have the power and is authorized, pursuant to the Revenue Bond Law, to provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying all or any part of the costs of a project and for the purpose of refunding revenue bonds or other obligations previously issued; provided, however, that no such revenue bonds shall be issued to finance a project for the Coweta County School System or any municipal corporation located within the county without the approval of the Board of Commissioners of Coweta County. Revenue bonds shall be undertaken, issued, priced, validated, sold, paid, redeemed, refunded, secured, and replaced in accordance with the provisions of the Revenue Bond Law.

SECTION 7.

Revenue bonds; conditions precedent to issuance.

The authority shall adopt a resolution authorizing issuance of revenue bonds. In the resolution, the authority shall determine that the project financed with the proceeds of such revenue bonds is self-liquidating. Revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and things which are specified or required by this Act. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special meeting of the authority by a majority vote as defined in Section 4 of this Act.
SECTION 8.
Credit not pledged.

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

SECTION 9.
Trust indenture as security.

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

SECTION 10.

Remedies of bondholders.

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

SECTION 11.

Validation.

Revenue bonds and the security therefor shall be issued, confirmed, and validated in accordance with the provisions of the Revenue Bond Law. The petition for validation shall also make Coweta County, the Coweta County School System, or any municipality within the county a party defendant to such action if such government has contracted with the authority for services or facilities relating to the project for which revenue bonds are to be
issued and sought to be validated, and such defendant shall be required to show cause, if any
exists, as to why such contract or contracts shall not be adjudicated as a part of the basis for
the security for the payment of any such revenue bonds. The revenue bonds, when validated,
and the judgment of validation shall be final and conclusive with respect to such revenue
bonds and the security for the payment thereof and interest thereon and against the authority
and all other defendants.

SECTION 12.

To whom proceeds of bonds shall be paid.

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

SECTION 13.

Sinking fund.

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

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

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

SECTION 14.
Venue and jurisdiction.

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

SECTION 15.
Interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of such authority or its officers, employees, or agents shall not be

H. B. 753
- 11 -
diminished or impaired in any manner that will affect adversely the interests and rights of the
holders of such revenue bonds; and no other entity, department, agency, or authority shall
be created which would compete with the authority to such an extent as to affect adversely
the interests and rights of the holders of such revenue bonds, nor shall the state itself so
compete with the authority. The provisions of this Act shall be for the benefit of the
authority and the holders of any such revenue bonds and, upon the issuance of such revenue
bonds under the provisions of this Act, shall constitute a contract with the holders of such
revenue bonds.

SECTION 16.
Money received considered trust funds.

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

SECTION 17.
Reversion upon dissolution.

Upon the dissolution of the authority, all assets owned by the authority shall become the
property of the county unless the agreement executed in connection with a project requires
otherwise.
SECTION 18.
Rates, charges, and revenues; use.

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

SECTION 19.
Tort immunity.

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

SECTION 20.
Tax exemption.

The income of the authority, the properties of the authority, both real and personal, and all revenue bonds, certificates of participation, notes, and other forms of obligations issued by the authority shall be exempt from all state and local taxes and special assessments of any kind to the extent permitted by and in accordance with the general laws of the state.
SECTION 21.
Effect on other governments.

This Act shall not and does not in any way take from Coweta County, the Coweta County School System, or any municipality within the county the authority to own, operate, and maintain public facilities or to issue revenue bonds as provided by the Revenue Bond Law.

SECTION 22.
Liberal construction of Act.

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

SECTION 23.
Severability; effect of partial invalidity of Act.

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

SECTION 24.
Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.
SECTION 25.

General repealer.

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