

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

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

H. B. 753

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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

39 expenses and such other expenses as may be necessary or incidental to the financing
40 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
41 add to, extend, improve, equip, operate, and maintain the project.

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

43 (4) "Project" means:

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

46 (i) The county or any department, agency, division, or commission thereof;

47 (ii) The Coweta County School System; or

48 (iii) Any municipal corporation within the county; and

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

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

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

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

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

SECTION 4.

Members of the authority; terms of office.

64 (a) The authority shall consist of five members who shall be appointed by the Board of
65 Commissioners of Coweta County. Members of the Board of Commissioners of Coweta
66 County may be appointed to the authority. With respect to the initial appointments, two
67 members shall be appointed for a term of three years, two members shall be appointed for
68 a term of two years, and one member shall be appointed for a term of one year. Thereafter,
69 all appointments shall be made for terms of three years and until successors are appointed
70 and qualified. Immediately after such appointments, the members of the authority shall
71 enter upon their duties. To be eligible for appointment as a member of the authority, a
72 person shall be at least 21 years of age and a resident of Coweta County, Georgia, for at
73 least two years prior to the date of his or her appointment and shall not have been convicted
74 of a felony. Any member of the authority may be selected and appointed to succeed
75 himself or herself.

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

79 (c) The members of the authority shall elect one of their number as chairperson and
80 another as vice chairperson. The members of the authority shall also elect a secretary, who
81 need not be a member of the authority, and may also elect a treasurer, who need not be a
82 member of the authority. The secretary may also serve as treasurer. If the secretary and
83 treasurer are not members of the authority, such officers shall have no voting rights. Each
84 officer shall serve for a period of one year and until their successors are duly elected and
85 qualified.

86 (d) Three members of the authority shall constitute a quorum. No vacancy on the authority
87 shall impair the right of the quorum to exercise all of the rights and perform all of the
88 duties of the authority.

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

91 SECTION 5.

92 Powers.

93 The authority shall have the power:

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

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

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

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

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

- 111 (6) To pay the costs of the project with the proceeds of revenue bonds or other
112 obligations issued by the authority or from any grant or contribution from the United
113 States or any agency or instrumentality thereof or from this state or any agency or
114 instrumentality or political subdivision or municipal corporation thereof or from any
115 other source whatsoever;
- 116 (7) To accept loans or grants of money, materials, or property of any kind from the
117 United States or any agency or instrumentality thereof, upon such terms and conditions
118 as the United States or such agency or instrumentality may require;
- 119 (8) To accept loans or grants of money, materials, or property of any kind from this state
120 or any agency or instrumentality or political subdivision or municipal corporation thereof,
121 upon such terms and conditions as this state or such agency or instrumentality or political
122 subdivision or municipal corporation may require;
- 123 (9) To borrow money for any of its corporate purposes, to issue revenue bonds, and to
124 provide for the payment of the same and for the rights of the holders thereof;
- 125 (10) To pledge the payment of revenue bonds, notes, and other forms of obligations
126 issued by the authority and any and all revenue and properties of the authority, both real
127 and personal;
- 128 (11) To exercise any power usually possessed by private corporations performing similar
129 functions, including the power to incur short-term debt and to approve, execute, and
130 deliver appropriate evidence of any such indebtedness;
- 131 (12) To prescribe rules, regulations, service policies, and procedures for the operation
132 of any project;
- 133 (13) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
134 manner in which its business is transacted; and
- 135 (14) To do all things necessary or convenient to carry out the powers expressly given in
136 this Act.

137 SECTION 6.

138 Revenue bonds.

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

149 SECTION 7.

150 Revenue bonds; conditions precedent to issuance.

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

160 SECTION 8.

161 Credit not pledged.

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

177 SECTION 9.

178 Trust indenture as security.

179 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
180 indenture by and between the authority and a corporate trustee, which may be any trust
181 company or bank having the powers of a trust company within or without this state. Either
182 the resolution providing for the issuance of revenue bonds or such trust indenture may
183 contain such provisions for protecting and enforcing the rights and remedies of the

184 bondholders as may be reasonable and proper and not in violation of law, including
185 covenants setting forth the duties of the authority in relation to the acquisition and
186 construction of the project; the maintenance, operation, repair, and insuring of the project;
187 and the custody, safeguarding, and application of all money.

188 SECTION 10.

189 Remedies of bondholders.

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

200 SECTION 11.

201 Validation.

202 Revenue bonds and the security therefor shall be issued, confirmed, and validated in
203 accordance with the provisions of the Revenue Bond Law. The petition for validation shall
204 also make Coweta County, the Coweta County School System, or any municipality within
205 the county a party defendant to such action if such government has contracted with the
206 authority for services or facilities relating to the project for which revenue bonds are to be

207 issued and sought to be validated, and such defendant shall be required to show cause, if any
208 exists, as to why such contract or contracts shall not be adjudicated as a part of the basis for
209 the security for the payment of any such revenue bonds. The revenue bonds, when validated,
210 and the judgment of validation shall be final and conclusive with respect to such revenue
211 bonds and the security for the payment thereof and interest thereon and against the authority
212 and all other defendants.

213 SECTION 12.

214 To whom proceeds of bonds shall be paid.

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

220 SECTION 13.

221 Sinking fund.

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

230 resolution or trust indenture into a sinking fund, which sinking fund shall be pledged to and
231 charged with the payment of:

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

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

242 SECTION 14.

243 Venue and jurisdiction.

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

249 SECTION 15.

250 Interest of bondholders protected.

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

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

261 SECTION 16.

262 Money received considered trust funds.

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

266 SECTION 17.

267 Reversion upon dissolution.

268 Upon the dissolution of the authority, all assets owned by the authority shall become the
269 property of the county unless the agreement executed in connection with a project requires
270 otherwise.

271 SECTION 18.

272 Rates, charges, and revenues; use.

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

279 SECTION 19.

280 Tort immunity.

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

287 SECTION 20.

288 Tax exemption.

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

293 SECTION 21.

294 Effect on other governments.

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

298 SECTION 22.

299 Liberal construction of Act.

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

302 SECTION 23.

303 Severability; effect of partial invalidity of Act.

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

307 SECTION 24.

308 Effective date.

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

311

SECTION 25.

312

General repealer.

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