

House Bill 1592 (AS PASSED HOUSE AND SENATE)

By: Representative DeLoach of the 167<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

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

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

32 **SECTION 2.**

33 Long County Building and Public Facilities Authority.

34 There is created a public body corporate and politic to be known as the Long County  
35 Building and Public Facilities Authority, which shall be an instrumentality and a public  
36 corporation of the State of Georgia, the purpose of which shall be to acquire, construct,  
37 equip, maintain, and operate certain projects for use by Long County or any other political  
38 subdivision or municipality located within Long County for its governmental, proprietary,  
39 public, and administrative functions. The authority shall not be a state institution or a  
40 department or agency of the state, but shall be an instrumentality of the state, a mere creation

41 of the state, being a distinct corporate entity and exempt from the provisions of Article 2 of  
42 Chapter 17 of Title 50 of the O.C.G.A., the "Georgia State Financing and Investment  
43 Commission Act." The authority shall have its principal office in Long County, and its legal  
44 situs or residence for the purposes of this Act shall be Long County.

45 **SECTION 3.**

46 **Membership.**

47 The authority shall consist of five members who shall be eligible to succeed themselves and  
48 who shall be appointed by the Board of Commissioners of Long County. No more than two  
49 members of the authority may be members of said board of commissioners. Any member  
50 of the authority who is a member of said board of commissioners shall serve for a term of  
51 office concurrent with such person's term of office as a member of said board of  
52 commissioners. Each member of the authority who is not a member of said board of  
53 commissioners shall serve for a term of office of three years, except that the initial terms of  
54 office of those members first appointed to the authority shall be specified at the time of  
55 appointment to be one, two, and, if no such member is a member of the board of  
56 commissioners, three years. After such initial terms, those members who are not members  
57 of said board of commissioners shall serve for terms of office of three years each. Members  
58 of the authority shall serve for the terms of office so specified and until the appointment and  
59 qualification of their respective successors. Vacancies on the authority shall be filled by said  
60 board of commissioners for the remainder of the unexpired term and until the appointment  
61 and qualification of a successor. Immediately after their appointment, the members of the  
62 authority shall enter upon their duties. The authority shall elect one of its members as  
63 chairperson and one as vice chairperson. The secretary-treasurer of the authority shall be  
64 appointed by the authority and need not be a member of the authority. Two members of the  
65 authority shall constitute a quorum and no vacancy on the authority shall impair the right of

66 the quorum to exercise all the rights and perform all the duties of the authority and, in every  
67 instance, a majority vote of a quorum shall authorize any legal act of the authority, including  
68 all things necessary to authorize and issue revenue bonds. The members of the authority  
69 shall receive no compensation for their services but may be reimbursed by the authority for  
70 the actual expenses necessarily incurred in the performance of their duties. The authority  
71 shall make rules and regulations for its own government and shall have perpetual existence.

## 72 SECTION 4.

### 73 Definitions.

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

76 (1) "Authority" shall mean the Long County Building and Public Facilities Authority  
77 created by this Act.

78 (2) "Project" shall mean and include real and personal property acquired or held by the  
79 authority, including all land, buildings, structures, sanitary and surface water sewers, and  
80 other public property determined by the authority to be desirable for the efficient  
81 operation of any department, board, office, commission, or agency of Long County, or  
82 of the State of Georgia, in the performance of its governmental, proprietary, and  
83 administrative functions.

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

90 equipping, and operating of any project or any part thereof and to the placing of the same  
91 in operation.

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

## 96 SECTION 5.

### 97 Powers.

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

101 (1) To sue and be sued;

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

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

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

- 114 (5) To improve, extend, add to, reconstruct, renovate, or remodel any project or part  
115 thereof already acquired;
- 116 (6) To pledge or assign any revenues, income, rent, charges, and fees received by the  
117 authority;
- 118 (7) To appoint and select agents, engineers, architects, attorneys, fiscal agents,  
119 accountants, and employees and to provide for their compensation and duties;
- 120 (8) To construct, reconstruct, acquire, own, alter, repair, remodel, maintain, extend,  
121 improve, operate, manage, and equip projects located on land owned or leased by the  
122 authority;
- 123 (9) To receive, accept, and use any contributions, loans, or grants by persons, firms, or  
124 corporations, including the State of Georgia and the United States of America, and any  
125 other contributions;
- 126 (10) To pay all or part of the costs of any project from the proceeds of revenue bonds of  
127 the authority or from other lawful sources available to it;
- 128 (11) To prescribe rules and regulations for the operation of and to exercise police powers  
129 over the projects managed or operated by the authority;
- 130 (12) To accept, receive, and administer gifts, grants, loans and devises of money,  
131 material, and property of any kind, including loans and grants from the State of Georgia  
132 or the United States of America or any agency or instrumentality thereof, upon such  
133 terms and conditions as the State of Georgia or the United States of America or such  
134 agency or instrumentality may impose;
- 135 (13) To sell, lease, exchange, transfer, assign, pledge, mortgage, dispose of, grant in  
136 trust, or grant options for any real or personal property or interest therein in furtherance  
137 of the purposes of the authority;
- 138 (14) As security for repayment of authority obligations, to pledge, mortgage, convey,  
139 assign, hypothecate, or otherwise encumber any property, real or personal, of such  
140 authority and to execute any trust agreement, indenture, or security agreement containing

141 any provisions not in conflict with law, which trust agreement, indenture, or security  
142 agreement may provide for foreclosure or forced sale of any property of the authority  
143 upon default, on such obligations, either in payment of principal or interest or in the  
144 performance of any term or condition, as are contained in such agreement or indenture;  
145 (15) To borrow money for any of its corporate purposes, to issue revenue bonds payable  
146 solely from funds pledged for that purpose, and to provide for the payment of the same  
147 and for the rights of the holders thereof;

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

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

168 bonds so authorized, any rents and revenue of the authority may be pledged and assigned.  
169 Such bonds shall be declared to be issued for an essential public and governmental  
170 purpose, and such bonds and all income therefrom shall be exempt from all taxation  
171 within the State of Georgia. For the purpose of the exemption from taxation of such  
172 bonds and the income therefrom, the authority shall be deemed to be a political  
173 subdivision of the State of Georgia.

174 **SECTION 6.**

175 Credit not pledged and debt not created by bonds.

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

187 **SECTION 7.**

188 Trust agreement.

189 In the discretion of the authority, any issue of revenue bonds may be secured by an  
190 agreement or indenture made by the authority with a corporate trustee, which may be any

191 trust company or bank having the powers of a trust company within or without the State of  
192 Georgia. Such trust agreement or indenture may pledge and assign rents, fees, charges,  
193 revenues, and earnings to be received by the authority. The resolution providing for the  
194 issuance of revenue bonds and such trust agreement or indenture may contain provisions for  
195 protecting and enforcing the rights and remedies of the bondholders, including the right of  
196 appointment of a receiver upon default of the payment of any principal or interest obligation  
197 and the right of any receiver or trustee to enforce collection of any rents, fees, charges, or  
198 revenues for use of the project or projects necessary to pay all costs of operation and all  
199 reserves provided for, all principal and interest on all bonds of the issue, all costs of  
200 collection, and all other costs reasonably necessary to accomplish the collection of such sums  
201 in the event of any default of the authority. Such resolution and such trust agreement or  
202 indenture may include covenants setting forth the duties of the authority in relation to the  
203 acquisition of property for and the construction of the project and to the custody,  
204 safeguarding, and application of all funds and covenants providing for the operation,  
205 maintenance, repair, and insurance of the project or projects and may contain provisions  
206 concerning the conditions, if any, upon which additional revenue bonds may be issued. Such  
207 trust agreement or indenture may set forth the rights and remedies of the bondholders and of  
208 the trustee and may restrict the individual right of action of bondholders as is customary in  
209 securing bonds and debentures of corporations and may contain such other provisions as the  
210 authority may deem reasonable and proper for the security of the bondholders. All expenses  
211 incurred in carrying out such trust may be treated as a part of the cost of maintenance,  
212 operation, and repair of the project affected by such trust.

213 **SECTION 8.**

214 Refunding bonds.

215 The authority is authorized to provide by resolution for the issuance of revenue bonds of the  
216 authority for the purpose of calling, refunding, or refinancing any revenue bonds issued  
217 under the provisions of this Act and then outstanding and to include in the amount of such  
218 refunding bonds all interest and any call premiums that may be required for the redemption  
219 and refunding of such outstanding bonds.

220 **SECTION 9.**

221 Venue of actions, jurisdiction.

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

227 **SECTION 10.**

228 Revenue bond validation.

229 The petition for validation of all revenue bonds of the authority shall be brought against the  
230 authority, and any contracting party whose obligation is pledged as security for the payment  
231 of the bonds sought to be validated, as defendants, and the defendants shall be required to  
232 show cause, if any exists, why such contract or contracts and the terms and conditions thereof  
233 shall not be adjudicated to be in all respects valid and binding upon such contracting parties.  
234 It shall be incumbent upon such defendants to defend against adjudication of the validity and

235 binding effect of such contract or contracts or be forever bound thereby. Notice of such  
236 proceedings shall be included in the notice of the validation hearing required to be issued and  
237 published by the clerk of the Superior Court of Long County in which court such validation  
238 proceedings shall be initiated.

239 **SECTION 11.**

240 Interest of bondholders protected.

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

247 **SECTION 12.**

248 Revenues, earnings, rents, and charges; use.

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

255 (1) To pay the cost of operating, maintaining, and repairing the project or projects,  
256 including reserves for insurance and extraordinary repairs and other reserves required by

257 the resolution or trust agreement or indenture pertaining to such bonds and the issuance  
258 thereof, unless such cost shall be otherwise provided for;

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

262 (3) To comply with any sinking fund requirements contained in the resolution or trust  
263 agreement or indenture pertaining to the issuance of and security for such bonds;

264 (4) To perform fully all provisions of such resolution or trust agreement or indenture  
265 relating to the issuance of or security for such bonds to the payment of which such rent  
266 is pledged;

267 (5) To accumulate any excess income which may be required by the purchasers of such  
268 bonds or may be dictated by the requirements of such resolution or trust agreement or  
269 indenture, or which may be required for achieving ready marketability of and low interest  
270 rates on such bonds; and

271 (6) To pay any expenses in connection with such bond issue or of such project,  
272 including, but not limited to, trustees', attorney's, and fiscal agents' fees.

273 (b) Such rent shall be payable at such intervals as may be agreed upon and set forth in the  
274 rental contract or lease providing therefor, and any such contract or lease may provide for the  
275 commencement of rent payments to the authority prior to the completion of the project by  
276 the authority and may provide for the payment of rent during such times as such project may  
277 be partially or wholly untenable.

278 (c) Such rental contract or lease may obligate the tenants or lessees to operate, maintain, and  
279 keep in good repair, including complete reconstruction, if necessary, the rented or leased  
280 premises and projects, regardless of the cause of the necessity of such maintenance, repair,  
281 or reconstruction.

282 (d) Such rental contract or lease may obligate the tenants or lessees to indemnify and save  
283 harmless the authority from any and all damage to persons and property occurring on or by

284 reason of the leased property or improvements thereon and to undertake, at the expense of  
285 the tenants or lessees, the defense of any action brought against the authority by reason of  
286 injury or damages to persons or property occurring on or by reason of the leased premises.

287 (e) In the event of any failure or refusal on the part of the tenants or lessees to perform  
288 punctually any covenant or obligation contained in any such rental contract or lease, the  
289 authority may enforce performance by any legal or equitable process against the tenants or  
290 lessees.

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

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

298 **SECTION 13.**

299 **Sinking fund.**

300 The revenue, rents, and earnings derived from any particular project or projects and any and  
301 all revenue, rents, and earnings received by the authority, regardless of whether such  
302 revenue, rents, and earnings were produced by a particular project for which bonds have been  
303 issued, unless otherwise pledged, may be pledged by the authority to payment of the  
304 principal of and interest on revenue bonds of the authority as may be provided in any  
305 resolution authorizing the issuance of such bonds or in any trust instrument pertaining to such  
306 bonds, and such funds so pledged, from whatever source received, may include funds  
307 received from one or more or all sources and may be set aside at regular intervals into  
308 sinking funds for which provision may be made in any such resolution or trust instrument

309 and which may be pledged to and charged with the payment of the interest upon such  
310 revenue bonds as such interest shall become due, the principal of the bonds as the same shall  
311 mature, the necessary charges of any trustee or paying agent for paying such principal and  
312 interest, and any premium upon bonds retired by call or purchase, and the use and disposition  
313 of any sinking fund may be subject to such regulation as may be provided for in the  
314 resolution authorizing the issuance of the bonds or in the trust instrument securing the  
315 payment of the same.

316 **SECTION 14.**

317 Taxation status.

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

326 **SECTION 15.**

327 Immunity from tort actions.

328 The authority shall have the same immunity and exemption from liability for torts and  
329 negligence as Long County, and the officers, agents, and employees of the authority, when  
330 in performance of work of the authority, shall have the same immunity and exemption from  
331 liability for torts and negligence as officers, agents, and employees of Long County. The

332 authority may be sued the same as private corporations on any contractual obligation of the  
333 authority.

334 **SECTION 16.**

335 Property not subject to levy and sale.

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

337 **SECTION 17.**

338 Trust funds.

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

345 **SECTION 18.**

346 Construction.

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

349

**SECTION 19.**

350

Scope of operations.

351 The projects of the authority's operation shall be located in the territory embraced within the

352 jurisdictional limits of Long County as the same now or may hereafter exist.

353

**SECTION 20.**

354

Conveyance of property upon dissolution.

355 Should the authority for any reason be dissolved after full payment of all bonded

356 indebtedness incurred under this Act, both as to principal and interest, title to all property of

357 any kind and nature, real and personal, held by the authority at the time of such dissolution

358 shall be conveyed to Long County, or title to any such property may be conveyed prior to

359 such dissolution in accordance with provisions which may be made therefor in any resolution

360 or trust instrument relating to such property, subject to any liens, leases, or other

361 encumbrances outstanding against or in respect to said property at the time of such

362 conveyance.

363

**SECTION 21.**

364

Severability; effect of partial invalidity of Act.

365 Should any sentence, clause, phrase, or part of this Act be declared for any reason to be

366 unconstitutional or invalid, the same shall not affect such remainder of this Act or any part

367 hereof, other than the part so held to be invalid, but the remaining provisions of this Act shall

368 remain in full force and effect, and it is the express intention of this Act to enact each

369 provision of this Act independently of any other provision hereof.

370

**SECTION 22.**

371

General repealer.

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