

House Bill 1016 (AS PASSED HOUSE AND SENATE)

By: Representatives Bruce of the 61st, Thomas of the 65th, Glaize of the 67th, Miller of the 62nd, Willis of the 55th, and others

A BILL TO BE ENTITLED
AN ACT

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

SECTION 2.

City of South Fulton Public Facilities Authority.

(a) There is hereby created a public body corporate and politic to be known as the "City of South Fulton 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. The members of the city council may be appointed as members of the authority. With respect to the initial appointment, two members shall be appointed for terms of three years, two members shall be appointed for terms 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, shall be a resident of the city 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. The term of any member of the city council of the City of South Fulton shall end when such member is no longer a member of the city council of the City of South Fulton.

(c) 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.

(d) 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

41 the authority. The secretary may also serve as treasurer. If the secretary or treasurer is not
42 a member of the authority, such officer shall have no voting rights on the authority. Each of
43 such officers shall serve for a period of one year and until their successors are duly elected
44 and qualified.

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

48 SECTION 3.

49 Definitions.

50 As used in this Act, the term:

51 (1) "Authority" means the City of South Fulton Public Facilities Authority created by
52 this Act.

53 (2) "City" means the City of South Fulton, Georgia.

54 (3) "Costs of the project" means and embraces the cost of construction; the cost of all
55 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
56 equipment; financing charges; interest prior to and during construction and for six months
57 after completion of construction; the cost of engineering, architectural, fiscal agents,
58 accounting, legal, plans, and specifications and expenses necessary or incidental to
59 determining the feasibility or practicability of the project; administrative expenses;
60 working capital; and all other costs necessary to acquire, construct, add to, extend,
61 improve, equip, operate, maintain, or finance the project.

62 (4) "County" means Fulton County, Georgia.

63 (5) "Project" means:

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

- 66 (i) The city or any department, agency, division, or commission thereof;
67 (ii) The county school district; and
68 (iii) The county or any department, agency, division, or commission thereof; and
69 (B) Any "undertaking" permitted by the "Revenue Bond Law" within the city limits;
70 provided, however, that all projects for the county school district or the county must be
71 located in the city limits.
- 72 (6) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A. or
73 any other similar law hereinafter enacted.
- 74 (7) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.
- 75 (8) "Self-liquidating" means any project which the revenues and earnings to be derived
76 by the authority therefrom, including, but not limited to, any contractual payments with
77 governmental or private entities and all properties used, leased, and sold in connection
78 therewith, together with any grants and any other available funds, will be sufficient to pay
79 the costs of operating, maintaining, and repairing the project and to pay the principal and
80 interest on the revenue bonds or other obligations which may be issued for the purpose
81 of paying the costs of the project.
- 82 (9) "State" means the State of Georgia.

83 **SECTION 4.**

84 Powers.

85 The authority shall have the power:

- 86 (1) To have a seal and alter the same at its pleasure;
87 (2) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,
88 maintain, lease, and dispose of real and personal property of every kind and character for
89 its corporate purposes;

- 90 (3) To acquire, construct, add to, extend, improve, equip, operate, maintain, lease, and
91 dispose of projects;
- 92 (4) To execute contracts, leases, installment sale agreements, and other agreements and
93 instruments necessary or convenient in connection with the acquisition, construction,
94 addition, extension, improvement, equipping, operation, maintenance, disposition, or
95 financing of a project;
- 96 (5) To appoint, select, and employ officers, agents, and employees, including, but not
97 limited to, engineering, architectural, and construction experts; fiscal agents; and
98 attorneys, and fix their respective compensations;
- 99 (6) To pay the costs of the project with the proceeds of revenue bonds, notes, or other
100 forms of obligations issued by the authority or from any grant or contribution from the
101 United States of America or any agency or instrumentality thereof or from the state or
102 any agency, instrumentality, municipality, or political subdivision thereof or from any
103 other source whatsoever;
- 104 (7) To pledge to the payment of revenue bonds, notes, and other forms of obligations
105 issued by the authority any and all revenues and properties of the authority, both real and
106 personal;
- 107 (8) To accept loans and grants of money or materials or property of any kind from the
108 United States of America or any agency or instrumentality thereof, upon such terms and
109 conditions as the United States of America or such agency or instrumentality may
110 require;
- 111 (9) To accept loans and grants of money or materials or property of any kind from the
112 state or any agency, instrumentality, municipality, or political subdivision thereof, upon
113 such terms and conditions as the state or such agency, instrumentality, municipality, or
114 political subdivision may require;
- 115 (10) To borrow money for any of its corporate purposes and to issue and execute revenue
116 bonds, notes, and other forms of obligations, deeds to secure debt, security agreements,

117 and such other instruments as may be necessary or convenient to evidence and secure
118 such borrowing;

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

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

123 (13) To exercise any power usually possessed by private corporations performing similar
124 functions; and

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

127 **SECTION 5.**

128 Revenue bonds.

129 The authority shall have power and is hereby authorized to provide by resolution for the
130 issuance of revenue bonds for the purpose of paying all or any part of the costs of the project
131 and for the purpose of refunding revenue bonds or other obligations previously issued. All
132 revenue bonds issued by an authority under this Act shall be issued and validated under and
133 in accordance with the "Revenue Bond Law." The principal of and interest on such revenue
134 bonds shall be payable solely from the revenues and properties pledged to the payment of
135 such revenue bonds. The revenue bonds issued by the authority shall contain such terms as
136 the authority shall determine are in the best interest of the authority; provided, however, that
137 no revenue bonds shall have a maturity exceeding 40 years.

138 **SECTION 6.**

139 Revenue bonds; signature; seal.

140 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
141 vice chairperson of the authority and the attesting manual or facsimile signature of the
142 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of
143 the authority shall be impressed or imprinted thereon. Any revenue bonds may bear the
144 manual or facsimile signature of such persons who at the actual time of the execution of such
145 revenue bonds are duly authorized or hold the proper office, although at the date of issuance
146 of such revenue bonds, such person may not have been so authorized or shall not have held
147 such office. In case any officer whose signature shall appear on any revenue bond shall
148 cease to be such officer before the delivery of such revenue bond, such signature shall
149 nevertheless be valid and sufficient for all purposes, the same as if that person had remained
150 in office until such delivery.

151 **SECTION 7.**

152 Revenue bonds; interest rate or rates; negotiability; exemption from taxes.

153 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
154 of negotiable instruments under the laws of the state. The interest rate or rates to be borne
155 by any revenue bonds or other obligations of the authority shall be fixed by the board of the
156 authority. Any limitations with respect to interest rates found in Article 3 of Chapter 82 of
157 Title 36 of the Official Code of Georgia or the usury laws of this state shall not apply to
158 revenue bonds issued under this Act. All revenue bonds, their transfer, and the income
159 therefrom shall be exempt from all taxation within the state.

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SECTION 8.

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Conditions precedent to issuance of revenue bonds.

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The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the resolution, the authority shall determine that the project financed or refinanced with the proceeds of the 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 or adjourned meeting of the authority.

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SECTION 9.

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Credit not pledged.

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Revenue bonds shall not be deemed to constitute a debt of the state or any political subdivision or municipal corporation of the state nor a pledge of the faith and credit of the state or any political subdivision or municipal corporation of the state. Revenue bonds shall be payable solely from the revenues and properties pledged to the payment of such revenue bonds. The issuance of revenue bonds shall not directly, indirectly, or contingently obligate the state or any political subdivision or municipal corporation of the state to levy or to pledge any form of taxation whatsoever for the payment of such revenue bonds or to make any appropriation for their payment. All 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 a political subdivision or municipal corporation of the state from entering into an intergovernmental contract pursuant to which the political subdivision or municipal corporation agrees to pay

184 amounts sufficient to pay operating charges and other costs of the authority or any project,
185 including, without limitation, the principal of and interest on revenue bonds, in consideration
186 for services or facilities of the authority.

187 **SECTION 10.**

188 Trust indenture as security; validation.

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

197 **SECTION 11.**

198 Remedies of bondholders.

199 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the
200 extent the rights given in this Act may be restricted by resolution passed before the issuance
201 of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,
202 mandamus, or other proceedings, protect and enforce any and all rights it may have under
203 the laws of the state, including specifically, but without limitation, the "Revenue Bond Law,"
204 or granted hereunder or under such resolution or trust indenture, and may enforce and compel
205 performance of all duties required by this Act or by such resolution or trust indenture to be
206 performed by the authority or any officer thereof, including the fixing, charging, and

207 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and
208 services furnished.

209 **SECTION 12.**

210 Validation.

211 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
212 the procedure of the "Revenue Bond Law." The petition for validation shall also make the
213 authority a party defendant to such action, in addition to any political subdivision or
214 municipal corporation of the state that has contracted with the authority for services or
215 facilities relating to the project for which revenue bonds are to be issued and sought to be
216 validated, and such defendant shall be required to show cause, if any exists, why such
217 contract or contracts shall not be adjudicated as a part of the basis for the security for the
218 payment of any such revenue bonds. The revenue bonds, when validated, and the judgment
219 of validation shall be final and conclusive with respect to such revenue bonds and the
220 security for the payment thereof and interest thereon and against the authority and all other
221 defendants.

222 **SECTION 13.**

223 Interest of bondholders protected.

224 While any of the revenue bonds issued by the authority remain outstanding, the powers,
225 duties, or existence of the authority or its officers, employees, or agents shall not be
226 diminished or impaired in any manner that will affect adversely the interests and rights of the
227 holders of such revenue bonds, and no other entity, department, agency, or authority will be
228 created which will compete with the authority to such an extent as to affect adversely the
229 interest and rights of the holders of such revenue bonds. The provisions of this Act shall be

230 for the benefit of the authority and the holders of any such revenue bonds, and upon the
231 issuance of such revenue bonds under the provisions hereof, shall constitute a contract with
232 the holders of such revenue bonds.

233 **SECTION 14.**

234 Venue and jurisdiction.

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

240 **SECTION 15.**

241 Money received considered trust funds.

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

245 **SECTION 16.**

246 Purpose of the authority; scope of operations.

247 Without limiting the generality of any provision of this Act, the general purpose of the
248 authority is declared to be that of providing public buildings, facilities, equipment, and
249 services for the citizens in the city. The scope of operations of the authority shall be limited
250 to the city in that all projects must benefit the city or be located in the city limits.

251 **SECTION 17.**

252 Rates, charges, and revenues; use.

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

259 **SECTION 18.**

260 Tort immunity.

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

266 **SECTION 19.**

267 Tax exemption.

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

272 **SECTION 20.**

273 Reversion of assets upon dissolution.

274 Upon the dissolution of the authority, all assets owned by the authority shall become property
275 of the city subject to any property rights vested in other parties.

276 **SECTION 21.**

277 Effect on other governments.

278 This Act shall not and does not in any way take from any political subdivision or municipal
279 corporation of the state the authority to own, operate, and maintain public facilities or to
280 issue revenue bonds as provided by the "Revenue Bond Law."

281 **SECTION 22.**

282 Liberal construction of Act.

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

285 **SECTION 23.**

286 Severability; effect of partial invalidity of Act.

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

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SECTION 24.

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