

House Bill 816 (AS PASSED HOUSE AND SENATE)

By: Representative Rhodes of the 124th

A BILL TO BE ENTITLED
AN ACT

1 To create the Greene County Public Facilities Authority and 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; to provide for moneys received and trust funds; to provide for tort
6 immunity; to provide for tax exemption, rates, charges, and revenues; to provide for effect
7 on other governments; to provide for construction of Act and severability; to provide for
8 related matters; to provide for an effective date; 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 "Greene County Public Facilities Authority
14 Act."

H. B. 816

- 1 -

SECTION 2.

Greene County Public Facilities Authority.

(a) There is hereby created a public body corporate and politic to be known as the "Greene 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 shall consist of five members who shall be appointed by the Board of Commissioners of Greene County. Members of the Board of Commissioners of Greene County may be appointed to the authority. With respect to initial appointments, each member of the Board of Commissioners, including the chairperson, shall nominate an individual for appointment to the authority. Commissioners may nominate themselves. Each initial nominee appointed to the authority shall serve contemporaneously with the term of the nominating commissioner, with such term expiring at the end of the existing term of the commissioner. Thereafter, all members shall be appointed for terms of four years and until their 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 Greene 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.

(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 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; and each shall serve for a period of one year and until their successors are duly elected and qualified.

(e) 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.

SECTION 3.

Definitions.

As used in this Act, the term:

(1) "Authority" means the Greene 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 Greene County, Georgia.

(4) "Project" means all buildings, facilities, and equipment necessary or convenient for the efficient operation of the county or any department, agency, division, or commission thereof, the Greene County School District, any municipal corporation within the county, and any undertaking permitted by the Revenue Bond Law.

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

(6) "Revenue bonds" means revenue bonds authorized to be issued pursuant to 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 herewith, 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.

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 acquire in its own name by purchase on such terms and conditions and in such manner as it may deem proper or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property, or rights or easements therein, or franchises necessary or convenient for its corporate purposes; to use the same so long as its corporate existence shall continue; and to lease or make contracts with respect to the use of or disposal of the same in any

manner it deems to the best advantage of the authority. The authority shall be under no obligation to accept and pay for any property condemned under this Act except from the funds provided under the authority of this Act. In any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action, or proceedings as may be just to the authority and to the owners of the property to be condemned. No property shall be acquired under the provisions of this Act upon which any lien or encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of money is to be deposited in trust to pay and redeem the fair value of such lien or encumbrance;

(4) 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;

(5) 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 Greene 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;

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

(7) 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 any instrumentality or other political subdivision thereof or from any other source whatsoever;

(8) 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;

(9) 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;

(10) To borrow money for any of its corporate purposes, to issue revenue bonds, notes and other forms of obligation, deeds to secure debt, security agreements, and other instruments as may be necessary or convenient to evidence and secure such borrowing, and to provide for the payment of the same and for the rights of the holders thereof;

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

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

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

SECTION 5.

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 power 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. Revenue bonds shall be undertaken, issued, priced, validated, sold, paid,
145 redeemed, refunded, secured, and replaced in accordance with the provisions of the Revenue
146 Bond Law. The principal and interest on revenue bonds shall be payable solely from the
147 revenues and properties pledged to the payment of such bonds. Revenue bonds issued by the
148 authority shall contain terms the authority determines are in the best interest of the authority,
149 provided no revenue bonds shall have a maturity exceeding 40 years.

150 **SECTION 6.**

151 Revenue bonds; signatures; seal.

152 All revenue bonds shall bear the manual or facsimile signature of the chairperson or vice
153 chairperson of the authority and the attesting manual or facsimile signature of the secretary
154 or treasurer of the authority, and the official seal of the authority shall be impressed or
155 imprinted thereon. Any revenue bonds may bear the manual or facsimile signature of such
156 persons as at the actual time of execution of the revenue bonds shall be duly authorized or
157 hold the proper office, although at the date of issuance of the revenue bonds the person may
158 not have been authorized or held the office. In case any officer whose signature appears on
159 any revenue bonds ceases to be an officer before the delivery of the bonds, the signature shall
160 be valid and sufficient for all purposes, as if the officer had remained in office until delivery.

SECTION 7.

Revenue bonds; negotiability; exemption from taxation.

All revenue bonds shall have, and are declared to have, all the qualities and incidents of negotiable instruments under the laws of this state. All revenue bonds and their transfer and income shall be exempt from all taxation within the state.

SECTION 8.

Revenue bonds; conditions precedent to issuance.

The authority shall adopt a resolution authorizing the issuance of the 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, special, or adjourned meeting of the authority.

SECTION 9.

Credit not pledged.

Revenue bonds of the authority shall not be deemed to constitute a debt of Greene County or the State of Georgia, nor a pledge of the faith and credit of this state or such county, 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 any political subdivision 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 10.

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 the 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 11.

Trust indenture as security; 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,

206 mandamus, or other proceedings, protect and enforce any and all rights it may have under
207 the laws of the state, including specifically, but without limitation, the Revenue Bond Law,
208 or granted hereunder or under such resolution or trust indenture and may enforce and compel
209 performance of all duties required by this Act or by such resolution or trust indenture to be
210 performed by the authority or any officer thereof, including the fixing, charging, and
211 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and
212 services furnished.

213 **SECTION 12.**

214 Trust indenture as security; validation.

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

225 **SECTION 13.**

226 To whom proceeds of bonds shall be paid.

227 In the resolution providing for the issuance of revenue bonds or in the trust indenture, the
228 authority shall provide for the payment of the proceeds of the sale of the revenue bonds to

229 any officer or person who, or any agency, bank, or trust company which, shall act as trustee
230 of such funds and shall hold and apply the same to the purposes thereof, subject to such
231 regulations as this Act and such resolution or trust indenture may provide.

232 **SECTION 14.**

233 Venue and jurisdiction.

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

239 **SECTION 15.**

240 Interest of bondholders protected.

241 While any of the revenue bonds issued by the authority remain outstanding, the powers
242 duties, or existence of such authority or its officers, employees, or agents shall not be
243 diminished or impaired in any manner that will affect adversely the interests and rights of the
244 holders of such revenue bonds; and no other entity, department, agency, or authority shall
245 be created which will compete with the authority to such an extent as to affect adversely the
246 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete
247 with the authority. The provisions of this Act shall be for the benefit of the authority and the
248 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
249 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

250 **SECTION 16.**

251 Money received considered trust funds.

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

255 **SECTION 17.**

256 Purpose of the authority; reversion upon dissolution.

257 (a) The authority is created for the purpose of promoting the public good and general welfare
258 of the citizens of Greene County, and financing and providing public buildings, facilities,
259 equipment, and services within the county, for sale to, lease or sublease to, ownership, or
260 operation by the county as otherwise authorized by law.

261 (b) Upon the dissolution of the authority, all assets owned by the authority shall become the
262 property of the county.

263 **SECTION 18.**

264 Rates, charges, and revenues; use.

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

271 **SECTION 19.**

272 Rules, regulations, service policies, and procedures for operation of projects.

273 It shall be the duty of the authority to prescribe rules, regulations, service policies, and
274 procedures for the operation of any project or projects constructed or acquired under the
275 provisions of this Act. The authority may adopt bylaws.

276 **SECTION 20.**

277 Tort immunity.

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

284 **SECTION 21.**

285 Tax exemption.

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

SECTION 22.

Effect on other governments.

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

SECTION 23.

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 24.

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 25.

Effective date.

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

308

SECTION 26.

309

General repealer.

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