House Bill 293 (AS PASSED HOUSE AND SENATE)
By: Representatives Bonner of the 72\textsuperscript{nd}, Jackson of the 64\textsuperscript{th}, Bazemore of the 63\textsuperscript{rd}, Mathiak of the 73\textsuperscript{rd}, and Stover of the 71\textsuperscript{st}

A BILL TO BE ENTITLED
AN ACT

To create the City of Fayetteville Public Facilities Authority; to provide for a short title; to provide for creation of the authority and its purpose; to provide for definitions; to provide for the membership of the authority and their terms of office, qualifications, and compensation; to provide for its powers; to provide for the issuance and sale of revenue bonds and other obligations; to provide that such revenues and other obligations are not general obligations; to provide for trust indentures; to provide for the security for the payment of revenue bonds and other obligations; to provide for validation; to provide for no impairment of rights; to provide for trust funds and investments; to provide for the power to set rates, fees, and charges; to provide for exemptions from taxation; to provide for tort and negligence immunity; to provide for exemptions from levy and sale; to provide for its area of operation; to provide for supplemental powers; to provide for no power to impose taxes or exercise the power of eminent domain; to provide for the conveyance of property upon dissolution; to provide for a principal office and venue; to provide for liberal construction; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Short title.

This Act shall be known and may be cited as the "City of Fayetteville Public Facilities Authority Act."
SECTION 2. 
Creation of the authority and purpose.

There is hereby created a body corporate and politic to be known as the "City of Fayetteville Public Facilities Authority," which shall be deemed to be a political subdivision of the state and a public corporation. Such corporation shall be separate and distinct from any public corporation or other entity heretofore created by the General Assembly and shall be an instrumentality of the state exercising governmental and proprietary powers. The authority shall have perpetual existence. The authority is created for the purpose of promoting the public good and general welfare of the citizens of the city and of the state and financing and providing facilities, equipment, and services within the city, for sale to, lease or sublease to, or operation by any public body or any private person, specifically including the city. 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 city.

SECTION 3. 
Definitions.

As used in this Act, the term:

(1) "Authority" means the City of Fayetteville Public Facilities Authority created by this Act.
(2) "City" means the City of Fayetteville, Georgia, or its successor.
(3) "Costs of the project" means:
   (A) The cost of construction;
   (B) The cost of all land and interests therein, properties, rights, easements, and franchises acquired;
   (C) The cost of acquiring, constructing, renovating, erecting, or demolishing buildings, improvements, materials, labor, and services;
   (D) The cost of all fixtures, furnishings, machinery, and equipment;
   (E) Issuance costs, including, but not limited to, fees or discounts of underwriters or placement agents, the funding of reserve accounts, financing charges including interest prior to and during the construction or acquisition of any project and for up to one year after such project is placed into service and operational at the level intended;
   (F) The costs of construction, engineering, architectural, fiscal, accounting, inspection, and legal expenses relating to a project or to the financing or refinancing of any project;

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and other expenses necessary or incident to determining the feasibility or practicability
of any project; and

(G) Administrative expenses relating to any project or the financing or refinancing
thereof, and such other expenses as may be necessary or incident to the financing or
refinancing of a project herein authorized, the acquisition, construction, renovation,
reconstruction, or remodeling of a project, and the placing of the same in operation.

Any obligation or expense incurred for any of the foregoing purposes shall be regarded
as part of the costs of the project and may be paid or reimbursed as such out of any
funds of the authority, including proceeds of any revenue bonds or other obligations
issued under the provisions hereof for any such project or projects and the proceeds of
the sale of any contracts, lease agreements, or installment sales agreements or the
amounts payable thereunder, either directly or indirectly by the creation of interests
therein.

(4) "Obligations" means revenue bonds, bond anticipation notes, other promissory notes,
certificates of participation, custodial receipts, or other similar instruments creating
interests in any contracts, lease agreements, or installment sales agreements or in the
amounts payable to the authority, directly or indirectly, thereunder.

(5) "Private person" means any individual or any legal entity, other than a public body,
whether operated for profit or not for profit.

(6) "Project" means any capital project that may be financed with revenue bonds under
general laws in effect from time to time, which is located or to be located in the city, that
is determined by the authority to promote the public good or general welfare of the
citizens of the city, or of the state, or any of its enterprises or systems, including, but not
limited to, the acquisition, construction, renovation, improvement, extension, addition,
or equipping within the city of:

(A) Utility systems and improvements, including, without limitation, water and sewer
systems and facilities, sewage and solid waste disposal systems and facilities, and
electric, gas, and other similar systems and facilities;
(B) Emergency facilities, including emergency, fire, police, and rescue facilities or
equipment;
(C) Recreational facilities, including parks, athletic fields, buildings, and other similar
facilities or equipment;
(D) Jails and other structures and facilities which are necessary and convenient for the
operation of jails; public safety facilities, including prisons, police stations, and related
facilities or equipment, and state patrol or other law enforcement facilities or
equipment;
(E) Educational, cultural, or historical facilities or equipment;

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(F) Administrative facilities or equipment, including city municipal buildings and other governmental buildings;
(G) Courthouses and public libraries;
(H) Facilities relating to aviation, including, but not limited to, airports, airfields, airport terminals, hangars, control towers, or facilities for the repair and maintenance of aircraft; and
(I) Other facilities which may be leased to, subleased to, operated by, or otherwise used by the authority or any other public body or private person.

(7) "Public bodies" means the United States of America and any federal agency, department, authority, or branch of its armed services; any county, political subdivision, or municipality of the state; and any state or local government agency, department, authority, board, or instrumentality.

(8) "Revenue bonds" means revenue bonds authorized to be issued by the authority pursuant to this Act or under Article 3 of Chapter 82 of Title 36 of O.C.G.A., as amended, the "Revenue Bond Law."

(9) "State" means the State of Georgia.

SECTION 4.

Members of the authority; terms of office.

(a) The authority shall consist of five members who shall be residents of the city and who shall be appointed by the mayor and members of the city council. The members of the authority shall be appointed to serve for a term of one year from the date of such appointment and until their successors shall have been selected and appointed.

(b) The mayor or any member of the city council may be appointed to serve as a member of the authority. The term of office of any member of the authority who also serves as a member of the appointing body shall expire when his or her term of office as a member of such appointing body expires.

(c) Any member of the authority may be selected and appointed to succeed himself or herself. Immediately after appointment, the members of the authority shall enter upon their duties. Any vacancy on the authority shall be filled in the same manner as the original appointment of the member whose termination of membership resulted in such vacancy and the person so selected and appointed shall serve for the remainder of the unexpired term. The authority shall elect one of its members as chairperson and another member as vice chairperson; it shall also elect a secretary and treasurer, who does not necessarily have to be a member of the authority and if not a member he or she shall have no voting rights.
(d) A majority of the members of the authority shall constitute a quorum and a majority vote of a quorum shall authorize any legal act of the authority, including all things necessary to authorize and issue revenue bonds and other obligations.

(e) No vacancy on the authority shall impair the right of the quorum to exercise the rights and perform the duties of the authority.

(f) The members of the authority shall not be entitled to compensation for their services as members of the authority but may be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

(g) The authority shall make rules and regulations for its own governance.

(h) The mayor and members of the city council, as officers of the city, may vote on transactions between the city and the authority and the members of the authority may likewise vote on transactions between the city and the authority and the same shall not be deemed to create any conflict of interest.

SECTION 5.

Powers of the authority.

The authority shall have the power:

(1) To sue and be sued;
(2) To have and to use a seal and to alter the same at its pleasure;
(3) To acquire, construct, purchase, hold, own, lease as lessee, expand, improve, renovate, repair, maintain, and operate real and personal property or interests therein;
(4) To enter into contracts for operation, management, maintenance, and repair of any of its property and for other purposes;
(5) To sell, lease as lessor, or otherwise transfer, pledge, or dispose of any real and personal property or interests therein. In connection with any such lease, sale, transfer, assignment, or other disposition, to the extent allowed by general law, the authority need not comply with any other provision of law requiring public bidding or any notice to the public of such lease, sale, transfer, assignment, or other disposition;
(6) To exercise the powers conferred upon a public corporation or a public authority by Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority being expressly declared to be a public corporation or a public authority within the meaning of such provision of the Constitution of Georgia;
(7) To acquire projects and other property in its own name by gift or by purchase on such terms and conditions and in such manner as it may deem proper. Any public body may transfer such real property or interests therein without regard to any determination as to whether or not such property or interest is surplus;
(8) To accept gifts and bequests for its corporate purposes;

(9) To appoint, select, and employ, with or without bidding as the authority may choose, officers, agents, and employees, including engineering, architectural, and construction experts, fiscal agents, underwriters or other advisers, and attorneys, and to fix their compensation;

(10) To make and execute with one or more public bodies and private persons contracts, lease agreements, rental agreements, installment sales agreements, and other instruments relating to the property of the authority and incident to the exercise of the powers of the authority, including contracts for constructing, renting, leasing, operating, using, and selling its projects for the benefit of other public bodies, specifically including the city;

(11) To the extent not prohibited by the Constitution of the State of Georgia or by general law, to be a co-owner, along with other public bodies and private persons, of any property or business entity if the authority finds and determines that such co-ownership is in the best interests of the authority and will serve the public purposes of the authority;

(12) To purchase policies of insurance as may be deemed appropriate for its corporate purposes;

(13) To operate, lease, sell, transfer, or otherwise dispose of any property, real or personal, or assets of the authority, or to assign its rights under its contracts, lease agreements, or installment sales agreements or its right to receive payments thereunder, either directly or through trust or custodial arrangements whereby interests are created in such contracts, lease agreements, or installment sales agreements or the payments to be received thereunder through the issuance of trust certificates, certificates of participation, custodial receipts, or other similar instruments;

(14) To accept loans and grants of money or property of any kind from the United States or any agency or instrumentality thereof or from any public body or private person; and all public bodies are authorized to make grants to the authority, subject to any limitations in the Constitution of Georgia and general law;

(15) To borrow money for any of its corporate purposes and to issue revenue bonds and other obligations payable from funds or revenues of the authority pledged for that purpose and to pledge and assign any of its revenues, income, rents, charges, and fees to provide for payment of the same and to provide for the rights of the holders of such obligations;

(16) To enter into:

(A) Interest rate swaps, collars, or other types of interest rate management agreements;

or

(B) Credit enhancement or liquidity agreements relating to any obligation of the authority, provided that the obligation of the authority under such agreements shall not
be a general obligation of the authority but shall be a limited obligation of the authority payable from a specific source of funds identified for such purpose;

(17) To make such rules and regulations governing its employees and property as it may in its discretion deem proper;

(18) To issue revenue bonds or other obligations to finance or refinance any costs of the project which may be financed by any public body; and

(19) To have and exercise the usual powers of private corporations, except such as are inconsistent with this Act or inconsistent with general law, and to do any and all things necessary and convenient to accomplish the purposes and powers of the authority as herein stated.

SECTION 6.

Issuance and sale of revenue bonds and other obligations.

The authority shall have power and is authorized from time to time to provide by resolution for the issuance and sale of negotiable revenue bonds in the manner provided by Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," and may issue other obligations for the purpose of paying all or any part of the costs of the project, including the cost of constructing, reconstructing, equipping, extending, adding to, or improving any such project, or for the purpose of refunding, as herein provided, any such bonds or other obligations of the authority or to refund bonds or other obligations of any other authority or public body previously issued to finance or refinance the costs of the project. The principal of and interest on such revenue bonds or other obligations shall be a limited obligation of the authority payable solely from the source or sources of funds specified in the indenture or resolution of the authority authorizing the issuance of such revenue bonds or other obligations. Such revenue bonds or other obligations shall mature on such dates, bear interest at such rate or rates, whether fixed or variable, be subject to redemption, and have such other terms as the authority may provide for in the indenture or resolution relating thereto. Such revenue bonds or other obligations may be issued for cash, property, or other consideration and may be sold in a negotiated sale or in a public sale at such prices and on such terms as the authority may determine. The offer, sale, or issuance of bonds or other obligations of the authority shall be exempt from registration to the extent provided in Chapter 5 of Title 10 of the O.C.G.A., as amended, the "Georgia Uniform Securities Act of 2008," or any other law.
SECTION 7.

Revenue bonds and obligations; credit not debt or pledge.

Revenue bonds or other obligations issued under the provisions of this Act or any loan incurred as authorized herein shall not constitute a debt or a pledge of the faith and credit of any other public body, but shall be payable solely from the sources as may be designated in the resolution or indenture of the authority authorizing the issuance of the same. The issuance of such obligations shall not directly, indirectly, or contingently obligate any public body to levy or to pledge any form of taxation whatsoever for the payment thereof, unless otherwise provided by an intergovernmental contract executed by such public body. No holder of any bond or other obligation or receiver or trustee in connection therewith shall have the right to enforce the payment thereof against any property of any other public body nor shall any such bond or other obligation constitute a charge, lien, or encumbrance, legal or equitable, upon any such property unless otherwise provided by an intergovernmental contract executed by such other public body and the authority. All such obligations shall contain on their face a recital setting forth substantially the foregoing provisions of this section. Nothing in this section shall be construed to prohibit any other public body from obligating itself to pay the amounts required under any intergovernmental contract entered into with the authority pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia or any successor provision, including, if such other public body has taxing power, from funds received from taxes to be levied and collected by such other public body for that purpose and from any other source.

SECTION 8.

Issuance under resolution or trust indenture.

In the discretion of the authority, any issuance of revenue bonds or other obligations may be secured by a trust indenture by and between the authority and a trustee, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution providing for the issuance of revenue bonds or other obligations may contain such provisions for protecting and enforcing the rights and remedies of the owners of such bonds or obligations as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority or any lessee or purchaser in relation to the acquisition and construction of any project, the maintenance, operation, repair, and financing of any project, and the custody, safeguarding, and application of all moneys, including the proceeds derived from the sale or lease of any project or from the sale of any such revenue bonds or other obligations, and may contain provisions concerning the conditions, if any,
upon which additional bonds or other obligations may be issued, whether on parity with or
subordinate to any other obligations issued by the authority. Such indenture or resolution
may set forth the rights and remedies of the owners of such obligations and of the trustee.
In addition to the foregoing, a trust indenture may contain such other provisions as the
authority may deem reasonable and proper for the security of the owners of such bonds or
other obligations or otherwise necessary or convenient in connection with the issuance of
such obligations. All expenses incurred in carrying out such trust indenture may be treated
as a part of the cost of maintenance, operation, and repair of the project affected by such
indenture.

SECTION 9.
Security for payment of bonds and obligations.

The authority may assign or pledge any property or revenues and its interest in any contracts,
lease agreements, or installment sales agreements, or the amounts payable thereunder, to the
payment of the principal and interest on revenue bonds and other obligations of the authority
as the resolution authorizing the issuance of the bonds or other obligations or the trust
indenture may provide. The use and disposition of such property or revenues assigned to the
payment of bonds or other obligations shall be subject to the indenture or resolution
authorizing the issuance of such revenue bonds or obligations. Any lien created by the
authority for the payment of such bonds or obligations may be a first lien or a subordinate
lien as the authority may provide, and any such indenture or resolution may provide, at the
option of the authority, for the issuance of additional bonds or other obligations sharing any
lien on a parity or subordinate basis.

SECTION 10.
Refunding bonds or obligations.

The authority is authorized to provide by resolution for the issuance of obligations, whether
revenue bonds or other obligations, for the purpose of refunding any revenue bonds or other
obligations issued under the provisions of this Act or under any other provision of state law
so long as such bonds or other obligations were issued for a purpose or project for which the
authority is authorized to issue bonds or other obligations. The issuance of such refunding
bonds or other obligations and all the details thereof, the rights of holders thereof, and the
duties of the authority with respect to the same shall be governed by the provisions of this
Act insofar as the same may be applicable.
SECTION 11.
Validation of bonds; elective validation of other obligations.

Revenue bonds of the authority shall be confirmed and validated in accordance with the procedure set forth in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended, the "Revenue Bond Law." At the election of the authority, other obligations of the authority may be validated as if they were revenue bonds. The petition for validation shall name the authority as a defendant and may also make a party defendant to such action any other private person or public body that has contracted or will contract with the authority with respect to the project for which revenue bonds or other obligations are to be issued and are sought to be validated. The bonds or other obligations, when validated, and the judgment of validation shall be final and conclusive with respect to the validity of such bonds or other obligations and the security therefor against the authority, other parties to the validation, and all other private persons and public bodies. Any action pertaining to the validation of any revenue bonds or other obligations issued under the provisions of this Act and for the validation of any instruments entered or to be entered into by the authority or other private persons or public bodies securing the same shall be brought in the Superior Court of Fayette County, and such court shall have exclusive original jurisdiction of such actions.

SECTION 12.
No impairment of rights.

While any of the bonds or other obligations issued by the authority or any interests in contracts of the authority remain outstanding, the powers, duties, or existence of the authority or of its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such bonds or obligations or such interests in contracts of the authority. The provisions of this section shall be for the benefit of the authority and of the holders of any such bonds or obligations or interests in contracts of the authority and, upon the issuance of bonds or obligations or the creation of interests in contracts of the authority under the provisions of this Act, shall constitute a contract with the holders of such bonds or obligations or such interests in contracts of the authority.
SECTION 13.

Trust funds; permitted investments.

All moneys received by the authority pursuant to this Act, whether as proceeds from the sale of revenue bonds or obligations of the authority, as grants or other contributions, or as revenues, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act and in such resolutions and trust indentures as may be adopted and entered into by the authority pursuant to this Act. Any such moneys or funds may be invested from time to time in such investments as may be permitted under the indenture, agreement, or resolution establishing the fund or account in which such funds are held, or if not held in such a fund or account, in such investments as would be permitted for investments of a development authority created under Chapter 62 of Title 36 of the O.C.G.A.

SECTION 14.

Rates, fees, and charges.

The authority is authorized to operate, sell, or lease any project and to prescribe and fix rates, fees, tolls, rents, and charges and to revise, from time to time, and collect such revised rates, fees, tolls, rents, and charges for the services, facilities, or commodities furnished, including leases, concessions, and subleases of its projects, and to determine the price and terms at and under which its projects may be sold, leased, or otherwise disposed of. The authority may establish in its discretion procedures for contracting for any work done for the authority or for the acquisition, sale, transfer, lease, management, or operation of any property, real or personal, of the authority. The authority may contract with others, including private persons, for services relating to the management, operation, sale, or lease of any project.

SECTION 15.

Revenue bonds and obligations exempt from taxation.

All revenue bonds or other obligations issued as provided in this Act are declared to be issued or incurred for an essential public and governmental purpose and such obligations and the interest thereon shall, to the extent not prohibited by general law, be exempt from all taxation within this state, whether or not the income on such bonds or other obligations is excludable from the gross income of the holders thereof for federal income tax purposes.
SECTION 16.

Essential government function; no taxes or assessments.

It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purpose are in all respects for the benefit of the people of this state and constitute a public purpose and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this Act. The property of the authority is declared to be public property that is exempt from taxes under subparagraph (a)(1)(A) of Code Section 48-5-41 of the O.C.G.A. To the extent not prohibited by general law, the tax exemption for property of the authority shall extend to leasehold interests of lessees thereof.

SECTION 17.

Immunity of authority and members.

The authority shall have the same immunity and exemption from liability for torts and negligence as the city and the officers, agents, and employees of the authority when in the performance of the work of the authority.

SECTION 18.

Property not subject to levy and sale.

The property of the authority shall not be subject to levy and sale under legal process. This provision shall not preclude a sale or foreclosure of any property under the terms of any deed to secure debt, mortgage, assignment, or security agreement that the authority has executed.

SECTION 19.

Area of operation.

The scope of the authority's operations shall be limited to the territory embraced by the territorial limits of the city, as the same now or may hereafter exist; provided, however, that nothing in this section shall prevent the authority from contracting with any entity or body, public or private, outside of the city with respect to any project located within the city or located outside of the city in furtherance of its public purposes.
SECTION 20.
Supplemental powers.

This Act shall not and does not in any way take from the authority any power which may be conferred upon it by law but is supplemental thereto.

SECTION 21.
No power to impose taxes.

The authority shall not have the right to impose any tax on any person or property.

SECTION 22.
Eminent domain.

The authority shall not have the right to exercise the power of eminent domain.

SECTION 23.
Conveyance of property upon dissolution.

Should the authority for any reason be dissolved after full payment of all revenue bonds of the authority and the termination of any leases, contracts, or options to which the authority is a party, the interest and any redemption premiums thereon, title to the items of property and funds of the authority held at the time of dissolution shall, prior to such dissolution, be conveyed and transferred to one or more public bodies, as the authority shall elect.

SECTION 24.
Principal office; venue.

The principal office of the authority shall be within the territorial limits of the city, and the venue of any action against it shall be in Fayette County, Georgia. Service upon the authority of any process, subpoena, or summons shall be effected by serving the same personally upon any member of the authority.

SECTION 25.
Act to be liberally construed.

This Act shall be liberally construed to effect the purposes hereof.
SECTION 26.

Repealer.

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