

House Bill 559 (AS PASSED HOUSE AND SENATE)

By: Representatives Stephens of the 164th, Tankersley of the 160th, and Petrea of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To create the Bryan County Public Facilities Authority; to provide for a short title; to provide
2 for the appointment of members of the authority; to provide for definitions; to confer powers
3 upon the authority; to authorize the issuance of revenue bonds of the authority payable from
4 the revenues, tolls, fines, fees, charges, and earnings of the authority, contract payments to
5 the authority, and from other money pledged therefor and to authorize the collection and
6 pledging of the revenues, tolls, fines, fees, charges, earnings, and contract payments of the
7 authority for the payment of such revenue bonds; to authorize the execution of resolutions
8 and trust indentures to secure the payment of the revenue bonds of the authority; to provide
9 for a sinking fund; to provide for venue and jurisdiction of actions relating to any provisions
10 of this Act; to provide for the protection of bondholders' interest; to provide for trust funds;
11 to provide for purpose; to provide for rates, charges, and revenues; to provide for rules,
12 regulations, service policies, and procedures for the operation of project; to provide for tort
13 immunity; to provide for effect on other governments; to provide for related matters; to
14 repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 SECTION 1.

17 Short title.

18 This Act shall be known and may be cited as the "Bryan County Public Facilities Authority
19 Act."

20 SECTION 2.

21 Bryan County Public Facilities Authority.

22 (a) There is hereby created a public body corporate and politic to be known as the "Bryan
23 County Public Facilities Authority," which shall be deemed to be a political subdivision of

24 the state and a public corporation, and by that name, style, and title such body may contract
25 and be contracted with, sue and be sued, implead and be impleaded, and complain and defend
26 in all courts of law and equity. The authority shall have perpetual existence.

27 (b) The authority shall consist of five members who shall be appointed by the Board of
28 Commissioners of Bryan County. With respect to the initial appointment by the Board of
29 Commissioners of Bryan County, two members shall each be appointed for a term of three
30 years; two members shall each be appointed for a term of two years; and one member shall
31 be appointed for a term of one year. Thereafter, all appointments shall be made for terms of
32 three years and until successors are appointed and qualified. Immediately after such
33 appointments, the members of the authority shall enter upon their duties. To be eligible for
34 appointment as a member of the authority, a person shall be at least 21 years of age and a
35 resident of Bryan County, Georgia, for at least two years prior to the date of his or her
36 appointment and shall not have been convicted of a felony. Any member of the authority
37 may be selected and appointed to succeed himself or herself. A member may be removed
38 from office by the board of commissioners for failure to perform the appropriate duties of
39 membership. The County Administrator and the Finance Director for Bryan County shall
40 serve as *ex officio* members of the authority and shall act as nonvoting members.

41 (c) The Board of Commissioners of Bryan County may provide by resolution for
42 compensation for the services of the members of the authority in such amounts as it may
43 deem appropriate; provided, however, that such members shall be reimbursed for their actual
44 expenses necessarily incurred in the performance of their duties.

45 (d) The members of the authority shall elect one of their number as chairperson and another
46 as vice chairperson. The members of the authority shall also elect a secretary, who need not
47 be a member of the authority, and may also elect a treasurer, who need not be a member of
48 the authority. The secretary may also serve as treasurer. If the secretary and treasurer are
49 not members of the authority, such officers shall have no voting rights. Each of such officers
50 shall serve for a period of one year and until their successors are duly elected and qualified.

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

54 SECTION 3.

55 Definitions.

56 As used in this Act, the term:

57 (1) "Authority" means the Bryan County Public Facilities Authority created by this Act.

58 (2) "Costs of the project" means and embraces the cost of construction; the cost of all
 59 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
 60 equipment; financing charges; interest prior to and during construction and for six months
 61 after completion of construction; the cost of engineering, architectural, fiscal agents'
 62 expenses, legal expenses, plans and specifications, and other expenses necessary or
 63 incidental to determining the feasibility or practicability of the project; administrative
 64 expenses and such other expenses as may be necessary or incidental to the financing
 65 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
 66 add to, extend, improve, equip, operate, and maintain the project.

67 (3) "Project" means:

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

70 (i) Bryan County, Georgia, or any department, agency, division, or commission
 71 thereof;

72 (ii) The Bryan County School District; or

73 (iii) Any other political subdivision or municipal corporation of the State of Georgia
 74 located within Bryan County, Georgia; and

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

76 (4) "Revenue bond law" means revenue bonds issued pursuant to this Act or under
 77 Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended, the "Revenue Bond
 78 Law."

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

81 (6) "Self-liquidating" means any project from which the revenues and earnings to be
 82 derived by the authority, including, but not limited to, any contractual payments with
 83 governmental or private entities, and all properties used, leased, and sold in connection
 84 herewith, together with any grants, will be sufficient to pay the costs of operating,
 85 maintaining, and repairing the project and to pay the principal and interest on the revenue
 86 bonds or other obligations which may be issued for the purpose of paying the costs of the
 87 project.

88 (7) "State" means the State of Georgia.

89 **SECTION 4.**

90 **Powers.**

91 The authority shall have the power:

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

- 93 (2) To acquire by purchase, lease, gift, condemnation, or otherwise and to hold, operate,
94 maintain, lease, and dispose of real and personal property of every kind and character for
95 its corporate purposes;
- 96 (3) To acquire, in its own name by purchase, on such terms and conditions and in such
97 manner as it may deem proper, or by condemnation in accordance with the provisions of
98 any and all existing laws applicable to the condemnation of property for public use, real
99 property or rights or easements therein, or franchises necessary or convenient for its
100 corporate purposes; to use the same so long as its corporate existence shall continue, and
101 to lease or make contracts with respect to the use of or disposal of the same in any
102 manner it deems to the best advantage of the authority. The authority shall be under no
103 obligation to accept and pay for any property condemned under this Act except from the
104 funds provided under the authority of this Act. In any proceedings to condemn, such
105 orders may be made by the court having jurisdiction of the suit, action, or proceedings
106 as may be just to the authority and to the owners of the property to be condemned. No
107 property shall be acquired under the provisions of this Act upon which any lien or
108 encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of
109 money is to be deposited in trust to pay and redeem the fair value of such lien or
110 encumbrance;
- 111 (4) To appoint, select, and employ officers, agents, and employees, including
112 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
113 their respective compensations;
- 114 (5) To execute contracts, leases, installment sale agreements, and other agreements and
115 instruments necessary or convenient in connection with the acquisition, construction,
116 addition, extension, improvement, equipping, operation, or maintenance of a project; and
117 any and all persons, firms, corporations, Bryan County, the Bryan County School
118 District, and any other political subdivision or municipal corporation of the State of
119 Georgia located in Bryan County, are hereby authorized to enter into contracts, leases,
120 installment sale agreements, and other agreements or instruments with the authority upon
121 such terms and for such purposes as they deem advisable and as they are authorized by
122 law;
- 123 (6) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,
124 and dispose of projects;
- 125 (7) To pay the costs of the project with the proceeds of revenue bonds or other
126 obligations issued by the authority or from any grant or contribution from the United
127 States or any agency or instrumentality thereof or from this state or any agency or
128 instrumentality or other political subdivision thereof or from any other source
129 whatsoever;

130 (8) To accept loans or grants of money or materials or property of any kind from the
 131 United States or any agency or instrumentality thereof, upon such terms and conditions
 132 as the United States or such agency or instrumentality may require;

133 (9) To accept loans or grants of money or materials or property of any kind from this
 134 state or any agency or instrumentality, political subdivision, or municipal corporation
 135 thereof, upon such terms and conditions as this state or such agency or instrumentality,
 136 political subdivision, or municipal corporation may require;

137 (10) To borrow money for any of its corporate purposes, to issue revenue bonds, and to
 138 provide for the payment of the same and for the rights of the holders thereof;

139 (11) To exercise any power usually possessed by private corporations performing similar
 140 functions, including the power to incur short-term debt and to approve, execute, and
 141 deliver appropriate evidence of any such indebtedness; and

142 (12) To do all things necessary or convenient to carry out the powers expressly given in
 143 this Act but only within the scope of the powers and purposes of the authority expressly
 144 stated in this Act.

145 **SECTION 5.**

146 Revenue bonds.

147 The authority, or any authority or body which has or which may in the future succeed to the
 148 powers, duties, and liabilities vested in the authority created by this Act, shall have power
 149 and is authorized to provide by resolution for the issuance of revenue bonds of the authority
 150 for the purpose of paying all or any part of the costs of an undertaking under the revenue
 151 bond law and for the purpose of refunding revenue bonds or other obligation previously
 152 issued; provided, however, that no such revenue bonds shall be issued to finance a project
 153 for the Bryan County School District or any other political subdivision or municipal
 154 corporation of the state located within Bryan County without the consent of the governing
 155 body of Bryan County. Revenue bonds shall be undertaken, issued, priced, validated, sold,
 156 paid, redeemed, refunded, secured, and replaced in accordance with the provisions of the
 157 Revenue Bond Law.

158 **SECTION 6.**

159 Same; conditions precedent to issuance.

160 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In such
 161 resolution, the authority shall determine that the project financed with the proceeds of the
 162 revenue bonds is self-liquidating. Revenue bonds may be issued without any other

163 proceedings or the happening of any other conditions or things other than those proceedings,
164 conditions, and things which are specified or required by this Act. Any resolution providing
165 for the issuance of revenue bonds under the provisions of this Act shall become effective
166 immediately upon its passage and need not be published or posted, and any such resolution
167 may be passed at any regular or special or adjourned meeting of the authority by a majority
168 of its members.

169 **SECTION 7.**

170 Credit not pledged.

171 Revenue bonds of the authority shall not be deemed to constitute a debt of Bryan County,
172 Georgia, nor a pledge of the faith and credit of such county, but such revenue bonds shall be
173 payable solely from the fund hereinafter provided for. The issuance of such revenue bonds
174 shall not directly, indirectly, or contingently obligate such county to levy or to pledge any
175 form of taxation whatsoever for payment of such revenue bonds or to make any appropriation
176 for their payment, and all such revenue bonds shall contain recitals on their face covering
177 substantially the foregoing provisions of this section. Notwithstanding the foregoing
178 provisions, this Act shall not affect the ability of the authority and any political subdivision
179 or municipal corporation to enter into an intergovernmental contract pursuant to which the
180 political subdivision or municipal corporation agrees to pay amounts sufficient to pay
181 operating charges and other costs of the authority or any project including, without
182 limitation, the principal of and interest on revenue bonds in consideration for services or
183 facilities of the authority.

184 **SECTION 8.**

185 Trust indenture as security.

186 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
187 indenture by and between the authority and a corporate trustee, which may be any trust
188 company or bank having the powers of a trust company within or outside of this state. Either
189 the resolution providing for the issuance of the revenue bonds or such trust indenture may
190 contain such provisions for protecting and enforcing the rights and remedies of the
191 bondholders as may be reasonable and proper and not in violation of law, including
192 covenants setting forth the duties of the authority in relation to the acquisition and
193 construction of the project; the maintenance, operation, repair, and insuring of the project;
194 and the custody, safeguarding, and application of all moneys.

195 **SECTION 9.**

196 To whom proceeds of bonds shall be paid.

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

202 **SECTION 10.**

203 Sinking fund.

204 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
205 fines, charges, and earnings derived from any particular project or projects, regardless of
206 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
207 particular project for which revenue bonds have been issued, unless otherwise pledged and
208 allocated, may be pledged and allocated by the authority to the payment of the principal and
209 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
210 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever
211 source received shall be set aside at regular intervals as may be provided in the resolution or
212 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
213 the payment of:

- 214 (1) The interest upon such revenue bonds as the same shall fall due;
- 215 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- 216 (3) Any premium upon such revenue bonds as the same shall fall due;
- 217 (4) The purchase of such revenue bonds in the open market; and
- 218 (5) The necessary charges of the paying agent for paying principal and interest.

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

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SECTION 11.

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Venue and jurisdiction.

226 Any action to protect or enforce any rights under the provisions of this Act or any suit or
227 action against the authority shall be brought in the Superior Court of Bryan County, Georgia,
228 and any action pertaining to validation of any revenue bonds issued under the provisions of
229 this Act shall likewise be brought in said court which shall have exclusive, original
230 jurisdiction of such actions.

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SECTION 12.

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Interest of bondholders protected.

233 While any of the revenue bonds issued by the authority remain outstanding, the powers,
234 duties, or existence of such authority or its officers, employees, or agents shall not be
235 diminished or impaired in any manner that will adversely affect the interests and rights of the
236 holders of such revenue bonds, and no other entity, department, agency, or authority shall be
237 created which will compete with the authority to such an extent as to adversely affect the
238 interest and rights of the holders of such revenue bonds nor shall the state itself so compete
239 with the authority. The provisions of this Act shall be for the benefit of the authority and the
240 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
241 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

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SECTION 13.

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Moneys received considered trust funds.

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

247

SECTION 14.

248

Purpose of the authority.

249 Without limiting the generality of any provision of this Act, the general purpose of the
250 authority is declared to be that of providing buildings, facilities, and services for the residents
251 of Bryan County, Georgia, but only to the extent that such building, facilities, equipment, and
252 services constitute a project.

253 **SECTION 15.**

254 Rates, charges, and revenues; use.

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

261 **SECTION 16.**

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

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

266 **SECTION 17.**

267 Tort immunity.

268 To the extent permitted by law, the authority shall have the same immunity and exemption
269 from liability for torts and negligence as Bryan County, Georgia; and the officers, agents, and
270 employees of the authority when in the performance of the work of the authority shall have
271 the same immunity and exemption from liability for torts and negligence as the officers,
272 agents, and employees of Bryan County, Georgia, when in the performance of their public
273 duties or work of the county.

274 **SECTION 18.**

275 Effect on other governments.

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

279

SECTION 19.

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Liberal construction of Act.

281 This Act, being for the welfare of various political subdivisions of this state and its

282 inhabitants, shall be liberally construed to effect the purposes hereof.

283

SECTION 20.

284

Repealer.

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