

Senate Bill 276

By: Senator Gooch of the 51st

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To create the Lumpkin County Airport Authority; to provide for creation and organization
2 of the authority; to provide for purposes; to provide for definitions; to provide for members;
3 to provide for officers, quorum, bylaws, procedures, and meetings; to provide for vacancies;
4 to provide for removal; to provide for conflicts of interest; to provide for powers; to provide
5 for execution of legal instruments; to provide for revenue bonds; to provide for property and
6 facilities; to provide for transfer of contracts; to provide for control of airports; to provide for
7 use of funds; to provide for financial reports and budgets; to provide for maintenance of
8 roads, taxiways, and runways; to provide for revenues; to provide for appropriation of funds;
9 to provide for immunity from liability; to provide for exemption from taxation; to provide
10 for dissolution; to provide for a principal office; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**
14 Creation of authority.

15 There is created the Lumpkin County Airport Authority which is referred to in this Act as the
16 "authority." The authority shall be an instrumentality and political subdivision of the State
17 of Georgia and a public corporation. The authority may exercise, subject to approval of the
18 governing authority of Lumpkin County, the powers set out in this Act with respect to any
19 land located within Lumpkin County or land contiguous to Lumpkin County which is, in
20 such case, owned by Lumpkin County or the authority and is used for airport purposes as
21 provided in this Act.

22

SECTION 2.

23

Declaration of purposes.

24 The purposes and objectives of this Act and the authority created by this Act shall be to meet
 25 the needs and requirements recognized in this Act through the improvement, maintenance,
 26 and operation of the Lumpkin County Airport; to ensure the orderly and proper use and
 27 growth of the public airport; to ensure that the maximum public benefit is obtained from the
 28 public airport that is presently in existence; to ensure proper planning and establishment of
 29 airports needed in the future; to ensure the maximum participation of this region and state
 30 in national and international programs of air transportation; and to promote public
 31 transportation and commerce, all to the end of providing the most effective and economical
 32 use of public airports for the public welfare, safety, and convenience.

33

SECTION 3.

34

Definitions.

35 As used in this Act, unless the context in which they are used requires otherwise, the term:

36 (1) "Airport" means any area of land or structure within the authority's jurisdiction, as
 37 set out in Section 1 of this Act, that is or has been used or which the authority may plan
 38 to use for the landing and taking off of commercial, private, and military aircraft,
 39 including helicopters; all buildings, equipment, facilities, or other property and
 40 improvements of any kind or nature located within the bounds of any such land area or
 41 structure that are or have been used or that the authority may plan to use for terminal
 42 facilities; all facilities of any type for the accommodation of passengers, maintenance,
 43 servicing, and operation of aircraft, business offices and facilities of private businesses
 44 and governmental agencies, and the parking of automobiles; and all other activities which
 45 are or have been carried on or which may be necessary or convenient in conjunction with
 46 the landing and taking off of commercial, private, and military aircraft, including all land
 47 originally acquired by Lumpkin County for the establishment of a county airport, any
 48 land to be deeded to Lumpkin County for airport use, including without limitation,
 49 aviation easements, and other real or personal property.

50 (2) "Airport hazard" means any structure, terrain, or object of natural growth which
 51 obstructs or impedes the airspace required for the flight, landing, or taking off of aircraft
 52 to or from an airport, or any other thing that is hazardous to the flight, landing, or taking
 53 off of aircraft to or from an airport.

54 (3) "County" means Lumpkin County, Georgia.

55 (4) "Revenue Bond Law" means the provisions of Article 3 of Chapter 82 of Title 36 of
 56 the O.C.G.A., as now or hereafter amended.

57 **SECTION 4.**

58 Members of the authority; qualifications.

59 (a) The authority shall be composed of five members who shall serve without pay and who
 60 shall be appointed by the governing authority of Lumpkin County. Members of the authority
 61 shall be at least 21 years of age, shall have been a resident of Lumpkin County for at least
 62 one year prior to the date of such person's appointment, and shall not have been convicted
 63 of a felony. Additionally, the members of the authority, as a whole, shall possess general
 64 knowledge of, or experience in, general aviation or airport operations matters, as well as
 65 large business management, banking, or finance.

66 (b) The five members of the authority shall meet the following additional criteria:

67 (1) At least one member shall have experience in banking or finance;

68 (2) At least one member shall have experience in a business requiring interaction with
 69 the public;

70 (3) At least one member shall be an aircraft owner with an aircraft based at the Lumpkin
 71 County Airport;

72 (4) At least one member shall have experience in local, state, or national government
 73 activities;

74 (5) One member shall be the chairperson of the governing authority of Lumpkin County.
 75 The chairperson of the governing authority may nominate a district commissioner to
 76 serve on the authority in his or her stead. The chairperson shall nominate such
 77 commissioner at any regular or special meeting of the board, and the board shall consider
 78 and vote upon the nomination in the same manner as any other motion. If approved, the
 79 nominated commissioner shall serve on the authority until the commission term of the
 80 chairperson is complete or until the commission term of the nominated commissioner is
 81 complete, whichever first occurs. If any such commissioner is not approved by the board,
 82 the chairperson of the governing authority may nominate an alternative district
 83 commissioner in the same manner provided by this paragraph; and

84 (6) No more than two of the five members shall be aircraft owners with aircraft based
 85 at the Lumpkin County Airport.

86

SECTION 5.

87

Terms of members.

88 The terms of office of members of the authority shall be for four years and until their
89 respective successors are appointed, except that the governing authority of Lumpkin County,
90 in making the initial appointments, may vary the initial terms of members so as to stagger
91 the terms such that the terms of no more than two members expire annually.

92

SECTION 6.

93

Election of officers, quorum, bylaws, procedures, and meetings.

94 After the appointment of the initial members, the full membership of the authority shall meet
95 as soon as practicable and shall elect one of its members as chairperson and one as vice
96 chairperson, each of whom shall continue as voting members in such positions for the
97 succeeding year and until their successors are elected. Thereafter, a chairperson and vice
98 chairperson shall be elected in the same manner each year to serve for the succeeding year
99 and until their successors are elected. The chairperson shall preside at meetings of the
100 authority, the vice chairperson shall preside in his or her absence, and they shall have such
101 other powers, duties, and responsibilities as are set out elsewhere in this Act and in the
102 bylaws of the authority. The authority shall also designate a secretary to record the minutes
103 of the authority. The secretary shall be responsible for transmitting all minutes and records
104 of the authority to the county clerk of Lumpkin County on a monthly basis. A majority of
105 the members of the authority shall constitute a quorum. No official action shall be taken
106 except upon the affirmative vote of at least three members of the authority. The authority
107 shall, as soon as practicable, adopt its own bylaws, rules of procedure, and rules of conduct
108 of its business. The authority shall meet at least once a month and at such other times as it
109 may deem necessary. All meetings shall be conducted in compliance with Chapter 14 of
110 Title 50 of the O.C.G.A.

111

SECTION 7.

112

Compensation of members.

113 The members shall receive no compensation or reimbursement for expenses.

114 **SECTION 8.**

115 Vacancies in authority.

116 Should an appointed member vacate his or her office either by resignation, death, removal,
117 or for any other reason, the governing authority of the county shall, as soon thereafter as
118 practicable, appoint another member as a member of the authority to complete the term of
119 the vacating member. Until such time as a new member is appointed, the total number of
120 members of the authority for the purposes of determining a quorum shall not include the
121 vacating member.

122 **SECTION 9.**

123 Removal of members.

124 Any member may be removed from office for good cause affecting his or her ability to
125 perform his or her duties as a member; for misfeasance, malfeasance, or nonfeasance in
126 office; for absence from three consecutive regularly scheduled meetings; or for violating
127 Section 11 of this Act. Any finding of such cause for removal shall be made by vote of a
128 majority of the governing authority of the county, but only after a public hearing at which
129 such member is given the right to present evidence in his or her behalf.

130 **SECTION 10.**

131 Executive director, treasurer, and other administrative officers and employees.

132 (a) The authority may, by unanimous vote, petition the governing authority of the county to
133 appoint an executive director under such terms and conditions as it deems appropriate.

134 (b) In like manner, the authority may, by unanimous vote, petition the governing authority
135 of the county to appoint a treasurer who shall have custody of all moneys, funds, notes,
136 bonds, and other securities as the authority may prescribe.

137 (c) The authority may also petition the governing authority of the county to authorize and
138 employ such other administrative officers and employees under such terms and conditions
139 as the authority shall consider necessary and appropriate to effectuate its purposes under this
140 Act.

141 (d) Lumpkin County shall be the custodian of all records of the authority.

142 **SECTION 11.**

143 Conflicts of interest.

144 (a) Except as otherwise provided in subsection (b) of this section, no member, officer, or
 145 employee of the authority shall have a financial interest, direct or indirect, in any contract
 146 with the authority or be financially interested, directly or indirectly, in the sale to the
 147 authority of any lands, materials, supplies, or services, except on behalf of the authority as
 148 a member, officer, or employee. Any violation of the provisions of this section by a member
 149 of this authority shall be grounds for removal pursuant to Section 9 of this Act. Any
 150 violation of the provisions of this section by the executive director, any officer, or any
 151 employee of the authority shall be grounds for removal by the authority.

152 (b) Any member, officer, or employee of the authority may rent hangar space for his or her
 153 personal or business aircraft on the same basis and cost as any other aircraft owner; such
 154 rental shall not be deemed a conflict of interest.

155 **SECTION 12.**

156 Powers of authority.

157 The authority shall possess, subject to approval by this governing authority of the county and
 158 those conditions and limitations set out elsewhere in this Act, all the powers necessary or
 159 convenient for it to accomplish the purposes of this Act, including the following specific
 160 powers, which shall not be construed as a limitation upon the general or other specific
 161 powers conferred in this Act:

- 162 (1) To adopt a seal to be used for the authentication of legal documents, obligations,
 163 contracts, and other instruments and to alter the same at the pleasure of the authority;
- 164 (2) To acquire by purchase, lease, gift, or otherwise and to hold, lease, sell, use, and
 165 dispose of real and personal property of every kind and character or any interest therein;
- 166 (3) To request that the county exercise the power of eminent domain to acquire any
 167 private real property or any rights or interests therein, including any easements, as
 168 necessary or convenient for the accomplishment of the purposes of this Act, including the
 169 elimination of airport hazards, in accordance with the provisions of any and all existing
 170 laws applicable to the exercise of such power, including, without limitation, the authority
 171 provided for in Code Section 6-3-22 of the O.C.G.A. The authority shall pay for any
 172 property condemned under this power from funds of the authority. The court having
 173 jurisdiction of the suit, action, or proceedings may enter such orders regarding the
 174 payment for such property or interest therein as may be fair and just to the county, to the
 175 authority, and to the owners of the property being condemned;

- 176 (4) To appoint, select, and contract for the services of engineers, architects, building
177 contractors, accountants and other fiscal agents, attorneys, and such other persons, firms,
178 or corporations as are necessary to accomplish the purposes of this Act for such fees of
179 compensation and under such terms and conditions as it deems appropriate, contingent,
180 however, on the ability of the authority to fund such action;
- 181 (5) To plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, and
182 lease all airports which shall come under the control of the authority under the provisions
183 of this Act or which it may acquire or plan to acquire; to regulate, protect, and police such
184 airports and all related activities and facilities; to enter into any contracts, leases, or other
185 agreements, promulgate any orders, set any tolls, fees, or other charges for the use of
186 property or services of the authority and collect and use the same as necessary to operate
187 the airports under control of the authority; and to accomplish any purposes of this Act and
188 make any purchases or sales necessary for such purposes;
- 189 (6) To contract with any persons, firms, or public or private corporations to supply
190 goods, commodities, facilities, and services to the public, employees of the authority, and
191 employees of air carriers and other commercial interests located at any airport under the
192 control of the authority under such terms and conditions as it may prescribe, including
193 the power to grant exclusive rights, franchises, or concessions;
- 194 (7) To adopt reasonable rules and regulations for the orderly, safe, efficient, and sanitary
195 operation of airports and related facilities under the control of the authority. All such
196 rules and regulations shall become effective upon approval of the authority and after
197 publication of a notice containing a substantive statement of the rule or regulation in a
198 newspaper of general circulation in Lumpkin County. The notice shall state that the full
199 text of all rules and regulations shall be maintained in the principal office of the authority
200 where such text will be open to public inspection and perusal. All rules and regulations
201 shall in fact be so maintained;
- 202 (8) To provide fire protection and crash and rescue services or to arrange for such
203 services in connection with any federal, state, municipal, or county agency or any private
204 firm in the business of providing such services;
- 205 (9) Subject to the prior approval of the governing authority of Lumpkin County, such
206 approval being spread upon the minutes of a public meeting at which all details are made
207 a part of the decision process, to make application directly or indirectly to any federal,
208 state, county, or municipal government or agency or to any other source, public or
209 private, for loans, grants, guarantees, or other financial assistance in aid of airports under
210 the control of the authority and to accept and use such loans, grants, guarantees, or other
211 financial assistance upon such terms and conditions as are prescribed by the federal, state,
212 county, or municipal government or agency or other source;

213 (10) To enter into agreements with the state, any state agency, county, municipality, or
214 the federal government or any agency thereof to use in the performance of the functions
215 of the authority in order to accomplish the purposes of the authority as set forth in this
216 Act;

217 (11) To borrow money to accomplish any purpose and execute evidences of indebtedness
218 therefor and secure such indebtedness in such manner as the authority may provide by
219 resolution authorizing such indebtedness to be incurred; provided, however, that the
220 authority shall not pledge for the payment of such indebtedness revenue pledged for the
221 payment of any other indebtedness then outstanding or encumber property in violation
222 of the terms of any existing contract, agreement, or trust indenture securing existing
223 indebtedness;

224 (12) To issue negotiable bonds, including revenue and refunding bonds, under such
225 terms and conditions as it deems appropriate and to provide for the payment of the same
226 and for the rights of the holders therefor;

227 (13) To enter into any financial arrangements whatsoever necessary to accomplish the
228 purposes of this Act not prohibited by this Act or by the Constitution of the State of
229 Georgia;

230 (14) To sell, lease, or otherwise dispose of surplus personal property and to sell, lease,
231 or otherwise dispose of land and any improvements thereon acquired by the authority
232 pursuant to law that the authority may determine is no longer required to accomplish the
233 purposes of this Act, including property that is suitable for industrial development. Any
234 such property may be sold, leased, or otherwise disposed of upon such terms and
235 conditions as may be provided by resolution of the authority. The proceeds of any such
236 sale may be used by the authority to accomplish any of the purposes of this Act;

237 (15) To determine what usage may be made of airports subject to the control of the
238 authority, including the power to determine what classes of aircraft may use particular
239 airports in order to derive the maximum public benefit from all airports;

240 (16) To exercise each and every power that any municipality or any county could
241 exercise, under laws existing at the time this Act becomes law, over airports owned or
242 operated by any municipality or any county which subsequently comes under the control
243 of the authority under the provisions of this Act just as if the authority were the
244 municipality or the county that previously owned or operated such airport and with regard
245 to any future airport or airports not existing at the time this Act becomes law. The
246 authority may exercise each and every power that a municipality or county could have
247 exercised under this Act had the authority acquired the ownership or operation of any
248 such airport or airports as if the authority were a municipality or county;

249 (17) To enter into contracts, leases, or other agreements with federally certificated air
 250 carriers, other commercial air carriers, and other commercial users of the authority's
 251 airports for the use of such airports under such terms and conditions as the authority
 252 deems appropriate and for such charges, rentals, and fees as the authority deems
 253 appropriate under the circumstances;

254 (18) To enter into such agreements with any municipality or county presently operating
 255 airports of which the authority may subsequently assume control with respect to the
 256 manner of transfer of airport employees from any municipality or any county to the
 257 authority as the authority deems necessary and appropriate under the circumstances;

258 (19) To establish a plan of civil service for officers and employees of the authority or to
 259 provide by resolution that such officers and employees of the authority shall be covered
 260 under any state, county, or municipal civil service plan that is available to such
 261 employees under the laws of this state or any county or municipality; and

262 (20) To establish a plan for retirement, disability, hospitalization, and death benefits for
 263 officers and employees of the authority or to provide by resolution that such officers and
 264 employees shall be covered under any state, county, or municipal plan available to them
 265 under the laws of this state or any county or municipality.

266 **SECTION 13.**

267 Execution of contracts, leases, obligations, agreements, or other legal instruments.

268 The authority shall follow Lumpkin County's financial policy. Any and all contracts, leases,
 269 obligations, agreements, or other legal instruments of the authority shall be approved by
 270 resolution of the authority and shall be executed by those individuals designated in such
 271 resolution or, in the absence of such designation, by the chairperson or vice chairperson.
 272 Nothing in this provision shall prohibit general resolutions authorizing the executive director
 273 or other officers, agents, or employees to execute such contracts, leases, obligations,
 274 agreements, or other legal instruments as the authority may prescribe. All such contracts,
 275 leases, obligations, agreements, or other legal instruments shall be in compliance with
 276 Lumpkin County's financial policy. No contracts, leases, obligations, agreements, or other
 277 legal instruments of the authority shall obligate Lumpkin County unless specifically
 278 approved by the governing authority of Lumpkin County.

279

SECTION 14.

280

Revenue bonds, Revenue Bond Law applicable.

281 (a) The authority shall have the power and is authorized, at one time or from time to time
 282 as it deems necessary to accomplish the purposes of this Act, to issue revenue bonds pursuant
 283 to the Revenue Bond Law, subject to approval by the governing authority of Lumpkin
 284 County.

285 (b) Except as otherwise provided in this Act, nothing in this section shall be construed so as
 286 to limit the power of the authority to issue any bonds authorized pursuant to Section 13 of
 287 this Act, except as provided in such law. Bonds of the authority shall be confirmed and
 288 validated in accordance with the procedure of the Revenue Bond Law. For purposes of
 289 validation of bonds under the Revenue Bond Law, the authority shall be considered to be
 290 located in Lumpkin County. All revenue bonds issued under the provisions of this Act are
 291 declared to be issued for an essential public and governmental purpose and said bonds and
 292 the income therefrom shall be exempt from all taxation within the state.

293 (c) Revenue bonds issued under the provisions of this Act shall not be deemed to constitute
 294 a debt of Lumpkin County nor a pledge of the faith and credit of said county and shall not
 295 directly, indirectly, or contingently obligate Lumpkin County to levy or to pledge any form
 296 of taxation whatever therefor or to make any appropriation for their payment. All such bonds
 297 shall contain recitals on their face covering substantially the foregoing provisions of this
 298 section.

299

SECTION 15.

300

Property of authority deemed to be public property.

301 It is declared that all property of the authority held pursuant to the terms of this Act, whether
 302 real or personal, tangible or intangible, and of any kind or nature, and any income or revenue
 303 therefrom is held for an essential public and governmental purpose and all such property is
 304 deemed to be public property.

305

SECTION 16.

306

Transfer of airport and related facilities to authority; public necessity.

307 (a) The authority shall by resolution, at such times as shall be deemed appropriate, determine
 308 what public airports within its jurisdiction as set out in Section 1 of this Act are necessary
 309 to accomplish the purposes of this Act and shall inform the governing authority of the county
 310 of such determination and request that the governing authority convey by deed all of the right

311 and interest in real property and any other property making up such airports owned by
312 Lumpkin County to the authority for a proper consideration within such time as the authority
313 may prescribe, subject to the provisions of Section 19 of this Act. It is declared that the
314 conveyance of such property is necessary and essential in order to accomplish the purposes
315 of this Act so as to secure the public welfare, safety, and convenience.

316 (b) A portion of the property currently identified as the Lumpkin County Airport is subject
317 to the reversion provision contained in that certain deed from A. G. Wimpy to Lumpkin
318 County dated October 18, 1966, and recorded in Deed Book P-2, page 367, Lumpkin County
319 Records.

320 **SECTION 17.**

321 Transfer of contracts to authority.

322 Upon conveyance of any airport to the authority pursuant to this Act, all contracts,
323 commitments, leases, and other obligations of Lumpkin County with respect to such airport
324 shall be transferred to the authority, and the authority shall stand in the place of Lumpkin
325 County for the purposes of such contracts, commitments, leases, or other obligations, subject
326 to the provisions of Section 19 of this Act.

327 **SECTION 18.**

328 Airport subject to control of authority.

329 Any airport acquired by the authority pursuant to this Act or acquired by the authority in any
330 legal manner, and any other property held by the authority, shall be under the control of the
331 authority, and the authority shall have the right to exercise any and all of the powers set out
332 in this Act in regard thereto.

333 **SECTION 19.**

334 Powers of authority limited to airports.

335 All of the powers, general and specific, granted to the authority pursuant to this Act shall be
336 exercised only in regard to airports and are subject to approval by the governing authority
337 of the county. The authority shall not have the power to plan, construct, finance, operate, or
338 maintain any facilities other than airports and related facilities; provided, however, that
339 nothing in this section shall be construed to prohibit the authority from cooperating with
340 other federal, state, county, or municipal governmental agencies or public corporations in
341 order to coordinate other types of facilities with airports under the control of the authority

342 or purchasing, selling, exchanging, or otherwise acquiring any property from or with such
343 agencies or corporations.

344 **SECTION 20.**

345 Funds of authority to be used only for airports.

346 The funds of the authority, from whatever source, shall be used only in support of airports
347 as defined in this Act, but nothing in this section shall prohibit the authority from making,
348 subject to approval by the governing authority of the county, any and all expenditures of any
349 kind or nature necessary to support such airports under the control of the authority.

350 **SECTION 21.**

351 Publication of financial report and budget.

352 The budget of the authority shall be approved by the governing authority of Lumpkin
353 County. The authority's budget shall be on a calendar year basis, and the budget shall be
354 submitted in accordance with the annual budget calendar adopted by the governing authority
355 of Lumpkin County. The authority shall submit all receipts from all sources to the governing
356 authority of Lumpkin County. All expenditures shall be submitted to the governing authority
357 of Lumpkin County for payment.

358 **SECTION 22.**

359 Maintenance of roads, taxiways, and runways.

360 Lumpkin County shall maintain the roads, taxiways, and runways of the authority to meet
361 minimum standards as set forth by the Federal Aviation Administration, this state, and
362 Lumpkin County. The authority shall compensate Lumpkin County for such maintenance.

363 **SECTION 23.**

364 Revenues.

365 All fees, charges, tolls, rentals, or other revenues derived from the operation or lease of such
366 airports or landing fields shall be used by the authority to meet in whole or in part the
367 expenses of operation and maintenance of its airports or landing fields. In the event the
368 revenue from the operation or lease of such airports or landing fields exceeds the expenses
369 of operation and maintenance, such excess shall be used for further developments or

370 improvements on such airports or for the acquisition of equipment for such airports or
371 landing fields and if not so used shall be paid to Lumpkin County.

372 **SECTION 24.**

373 Appropriated funds.

374 The authority shall have the control and expenditure of any funds that may be appropriated
375 to it by Lumpkin County for the construction, development, maintenance, improvement, and
376 operation of airports or landing fields.

377 **SECTION 25.**

378 Immunity from liability.

379 The authority shall have the same immunity and exemption from liability from torts and
380 negligence as the state and the county, and members, officers, agents, and employees of the
381 authority when in performance of the work of the authority shall have the same immunity
382 and exemption from liability from torts and negligence as the officers, agents, and employees
383 of the state and the county when in performance of their public duties or work of the state or
384 the county.

385 **SECTION 26.**

386 Tax exemption of the authority.

387 It is found, determined, and declared that the creation of the authority and the carrying out
388 of its authorized purposes are in all respects for the benefit of the people of this state and
389 county and constitute a public purpose and that the authority will be performing an essential
390 governmental function in the exercise of the powers conferred upon it by this Act. The
391 authority shall enjoy such tax exemptions as may be provided by general law.

392 **SECTION 27.**

393 Dissolution of authority.

394 In the event of dissolution of the authority, all property, real and personal, tangible and
395 intangible, shall revert to and be the property of the county, subject to all rights and
396 encumbrances thereon; provided that the county, by acceptance thereof, shall fulfill all
397 obligations of the authority.

398

SECTION 28.

399

Principal office of authority; service of process.

400 The principal office of the authority shall be located at 1682 Camp Wahsega Road,
401 Dahlonega, Georgia, 30533. Service of process on the authority may be effectuated upon the
402 chairperson or other officers of the authority as in the case of private corporations
403 incorporated or domesticated under the laws of this state.

404

SECTION 29.

405

Repealer.

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