

House Bill 1085

By: Representatives Lupton of the 83rd, Tran of the 80th, and Holcomb of the 81st

A BILL TO BE ENTITLED

AN ACT

1 To create the City of Chamblee Public Facilities Authority; to provide that the authority is
2 a body corporate and politic and an instrumentality of the State of Georgia; to authorize the
3 authority to acquire, construct, equip, maintain, and operate certain projects, including
4 buildings and facilities for use by the City of Chamblee for its governmental, proprietary, and
5 administrative functions; to provide for members of the authority and their terms,
6 organization, reimbursement, quorum, and vacancies; to provide for definitions; to confer
7 powers and impose duties on the authority; to provide for limitations of the authority; to
8 authorize the authority to enter into contracts and leases pertaining to uses of such facilities,
9 which contracts and leases may obligate the lessees to make payment for the use of the
10 facilities for the term thereof and to pledge for that purpose money derived from taxation;
11 to provide that no debt of the City of Chamblee or the State of Georgia shall be incurred by
12 the exercise of any of the powers granted; to authorize the issuance of revenue bonds of the
13 authority payable from the revenues, rents, and earnings and other functions of the authority;
14 to authorize the collecting and pledging of such revenues, rents, and earnings for the payment
15 of such bonds; to authorize the adoption of resolutions and the execution of trust agreements
16 and indentures to secure the payment of such bonds and to define the rights of the holders
17 of such bonds; to make the bonds of the authority exempt from taxation; to authorize the
18 issuance of refunding bonds; to provide for the validation of such bonds and to fix the venue

H. B. 1085

- 1 -

19 for jurisdiction of actions relating to any provision of this Act; to provide for immunity and
20 exemption from liability for torts and negligence; to provide that the property of the authority
21 shall not be subject to levy and sale; to provide that certain moneys are trust funds; to provide
22 that this Act shall be liberally construed; to define the scope of the authority's operation; to
23 provide for disposition of property upon dissolution of the authority; to provide for
24 severability; to provide for a short title; to provide for an effective date; to provide for related
25 matters; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

27 **SECTION 1.**

28 Short title.

29 This Act shall be known and may be cited as the "City of Chamblee Public Facilities
30 Authority Act."

31 **SECTION 2.**

32 City of Chamblee Public Facilities Authority.

33 There is created a public body corporate and politic to be known as the City of Chamblee
34 Public Facilities Authority, which shall be deemed to be a political subdivision of the state
35 and a public corporation, and by that name, style, and title said body may contract and be
36 contracted with, sue and be sued, implead and be impleaded, and complain and defend in all
37 courts of law and equity. The authority shall have perpetual existence. The authority shall
38 have its principal office in the City of Chamblee, and its legal situs or residence for the
39 purposes of this Act shall be the City of Chamblee.

SECTION 3.**Membership.**

42 (a) The authority shall consist of six members who shall be appointed by the city council.
43 The members of the city council may be appointed as members of the authority. Any
44 member of the authority who is a member of the city council shall serve for a term of office
45 concurrent with such person's term of office on the city council. Any member of the
46 authority who is not a member of the city council shall serve for a term of office of three
47 years or until a successor is appointed. Notwithstanding the foregoing, the initial
48 appointments for the non-council members shall be staggered so that not more than three
49 terms expire on the same date. Immediately after such appointments, the members of the
50 authority shall enter upon their duties. To be eligible for appointment as a non-council
51 member of the authority, a person shall be at least 21 years of age, shall be a resident of the
52 city for at least two years prior to the date of his or her appointment, and shall not have been
53 convicted of a felony. Any member of the authority may be selected and appointed to
54 succeed himself or herself.

55 (b) The members shall not be compensated for their services; provided, however, that such
56 members shall be reimbursed for their actual expenses necessarily incurred in the
57 performance of their duties.

58 (c) The members of the authority shall elect one of their number as chairperson and another
59 as a vice chairperson. The members of the authority shall also elect a secretary, who need
60 not be a member of the authority, and may also elect a treasurer, who need not be a member
61 of the authority. The secretary may also serve as treasurer. If the secretary or treasurer are
62 not members of the authority, such officers shall have no voting rights. Each of such officers
63 shall serve for a period of one year or until their successors are duly elected. Four members
64 of the authority shall constitute a quorum. No vacancy on the authority shall impair the right
65 of the quorum to exercise all of the rights and perform all of the duties of the authority.

66 **SECTION 4.**
67 Definitions.

68 As used in this Act, the following words and terms shall have the following meanings unless
69 a different meaning clearly appears from the context:

70 (1) "Authority" shall mean the City of Chamblee Public Facilities Authority created by
71 this Act.

72 (2) "City" shall mean the City of Chamblee, Georgia.

73 (3) "City council" shall mean the mayor and city council of the city.

74 (4) "Costs of the project" shall mean the cost of construction; the cost of all lands,
75 properties, rights, easements and franchises acquired; the cost of all machinery and
76 equipment; financing charges; interest prior to and during construction and for six months
77 after completion of construction; the cost of engineering, architectural, fiscal agents,
78 accounting, legal, plans and specifications, and expenses necessary or incidental to
79 determining the feasibility or practicability of the project; administrative expenses;
80 working capital; and all other costs necessary to acquire, construct, add to, extend,
81 improve, equip, operate, maintain, or finance the project.

82 (5) "Project" shall mean and include all buildings, facilities, and equipment necessary
83 or convenient for the efficient operation of the city or any department, agency, division,
84 or commission thereof; and any undertaking permitted by the Revenue Bond Law within
85 the city limits.

86 (6) "Revenue bonds" shall mean revenue bonds issued under the provisions of Article 3
87 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," or under the
88 provisions of this Act. The obligations authorized under this Act may be issued by the
89 authority in the manner authorized under the Revenue Bond Law.

90 (7) "Self-liquidating" shall mean any project which the revenues and earnings to be
91 derived by the authority therefrom, including, but not limited to, any contractual
92 payments with governmental or private entities and all properties used, leased, and sold
93 in connection therewith, together with any grants and any other available funds, will be
94 sufficient to pay the costs of operating, maintaining, and repairing the project and to pay
95 the principal and interest on the revenue bonds or other obligations which may be issued
96 for the purpose of paying the costs of the project.

97 (8) "State" shall mean the State of Georgia.

98 SECTION 5.

99 Powers.

100 The authority shall have all the powers necessary or convenient to carry out and effectuate
101 the purposes and provisions of this Act, including, but without limiting the generality of the
102 foregoing, the power:

- 103 (1) To have a seal and alter the same at its pleasure;
- 104 (2) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,
105 maintain, lease, and dispose of real and personal property of every kind and character for
106 its corporate purposes;
- 107 (3) To acquire, construct, add to, extend, improve, equip, operate, maintain, lease, and
108 dispose of projects;
- 109 (4) To execute contracts, leases, installment sale agreements, and other agreements and
110 instruments necessary or convenient in connection with the acquisition, construction,
111 addition, extension, improvement, equipping, operation, maintenance, disposition, or
112 financing of a project;

- 113 (5) To appoint, select, and employ officers, agents, and employees, including, but not
114 limited to, engineering, architectural, and construction experts, fiscal agents, and
115 attorneys, and fix their respective compensations;
- 116 (6) To pay the costs of the project with the proceeds of revenue bonds, notes, or other
117 forms of obligations issued by the authority or from any grant or contribution from the
118 United States of America or any agency or instrumentality thereof or from the State of
119 Georgia or any agency, instrumentality, municipality, or political subdivision thereof or
120 from any other source whatsoever;
- 121 (7) To pledge to the payment of revenue bonds, notes, and other forms of obligations
122 issued by the authority any and all revenues and properties of the authority, both real and
123 personal;
- 124 (8) To accept loans and grants of money or materials or property of any kind from the
125 United States of America or any agency or instrumentality thereof, upon such terms and
126 conditions as the United States of America or such agency or instrumentality may
127 require;
- 128 (9) To accept loans and grants of money or materials or property of any kind from the
129 State of Georgia or any agency, instrumentality, municipality, or political subdivision
130 thereof, upon such terms and conditions as the state or such agency, instrumentality,
131 municipality, or political subdivision may require;
- 132 (10) To borrow money for any of its corporate purposes and to issue and execute revenue
133 bonds, notes, and other forms of obligations, deeds to secure debt, security agreements,
134 and such other instruments as may be necessary or convenient to evidence and secure
135 such borrowing;
- 136 (11) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
137 manner in which its business is transacted;
- 138 (12) To prescribe rules, regulations, service policies, and procedures for the operation
139 of any project;

140 (13) To exercise any power usually possessed by private corporations performing similar
141 functions;

142 (14) To do all things necessary or convenient to carry out the powers expressly given in
143 this Act; and

144 (15) The authority shall have the power and is hereby authorized to provide by resolution
145 for the issuance of revenue bonds for the purpose of paying all or any part of the costs of
146 the project and for the purpose of refunding revenue bonds or other obligations
147 previously issued. The principal of and interest on such revenue bonds shall be payable
148 solely from the revenues and properties pledged to the payment of such revenue bonds.
149 The revenue bonds issued by the authority shall contain such terms as the authority shall
150 determine are in the best interest of the authority; provided, however, that no revenue
151 bonds shall have a maturity exceeding 40 years. All such revenue bonds shall bear the
152 manual or facsimile signature of the chairperson or vice chairperson of the authority and
153 the attesting manual or facsimile signature of the secretary, assistant secretary, or
154 secretary-treasurer of the authority, and the official seal of the authority shall be
155 impressed or imprinted thereon. Any revenue bonds may bear the manual or facsimile
156 signature of such persons who at the actual time of the execution of such revenue bonds
157 shall be duly authorized or hold the proper office, although at the date of issuance of such
158 revenue bonds such person may not have been so authorized or shall not have held such
159 office. In case any officer whose signature shall appear on any revenue Bond shall cease
160 to be such officer before the delivery of such revenue bond, such signature shall
161 nevertheless be valid and sufficient for all purposes, the same as if that person had
162 remained in office until such delivery. All revenue bonds shall have and are hereby
163 declared to have all the qualities and incidents of negotiable instruments under the laws
164 of the state. All revenue bonds, their transfer, and the income therefrom shall be exempt
165 from all taxation within the state. The authority shall adopt a resolution authorizing the
166 issuance of the revenue bonds. In the resolution, the authority shall determine that the

167 project financed or refinanced with the proceeds of the revenue bonds is self-liquidating.
168 Revenue bonds may be issued without any other proceedings or the happening of any
169 other conditions or things other than those proceedings, conditions, and things which are
170 specified or required by this Act. Any resolution providing for the issuance of revenue
171 bonds under the provisions of this Act shall become effective immediately upon its
172 passage and need not be published or posted, and any such resolution may be passed at
173 any regular or special or adjourned meeting of the authority.

174 **SECTION 6.**

175 Credit not pledged and debt not created by bonds.

176 Revenue bonds shall not be deemed to constitute a debt of the state or of the city nor a pledge
177 of the faith and credit of the state or the city. Revenue bonds shall be payable solely from
178 the revenues and properties pledged to the payment of such revenue bonds. The issuance of
179 revenue bonds shall not directly, indirectly, or contingently obligate the state or the city to
180 levy or to pledge any form of taxation whatsoever for the payment of such revenue bonds or
181 to make any appropriation for their payment. All revenue bonds shall contain recitals on
182 their face covering substantially the foregoing provisions of this section. Notwithstanding the
183 foregoing provisions, this Act shall not affect the ability of the authority and the city to enter
184 into an intergovernmental contract pursuant to which the city agrees to pay amounts
185 sufficient to cover the operating charges and other costs of the authority or any project,
186 including, without limitation, the principal of and interest on revenue bonds, in consideration
187 for services or facilities of the authority.

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SECTION 7.

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Trust agreement.

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

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SECTION 8.

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Remedies of bondholders.

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

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SECTION 9.

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Venue of actions, jurisdiction.

212 Any action to protect or enforce any rights under the provisions of this Act or any action
213 against the authority brought in the courts of the State of Georgia shall be brought in the
214 Superior Court of DeKalb County, Georgia, and any action pertaining to validation of any
215 bonds issued under the provisions of this Act shall be brought in said court, which shall have
216 exclusive, original jurisdiction of such actions.

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SECTION 10.

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Revenue bond validation.

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

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SECTION 11.

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Interest of bondholders protected.

230 While any of the revenue bonds issued by the authority remain outstanding, the powers,
231 duties, or existence of the authority or its officers, employees, or agents, shall not be
232 diminished or impaired in any manner that will affect adversely the interests and rights of the
233 holders of such revenue bonds, and no other entity, department, agency, or authority shall be
234 created which will compete with the authority to such an extent as to affect adversely the
235 interests and rights of the holders of such revenue bonds. The provisions of this Act shall be
236 for the benefit of the authority and the holders of any such revenue bonds, and upon the
237 issuance of such revenue bonds under the provisions of this Act, shall constitute a contract
238 with the holders of such revenue bonds.

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SECTION 12.

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Effect on other governments.

241 This Act shall not and does not in any way take from the city the authority to own, operate,
242 and maintain public facilities or to issue revenue bonds as provided by the Revenue Bond
243 Law.

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SECTION 13.

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Moneys received considered trust funds.

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

249 **SECTION 14.**

250 Taxation status.

251 The income of the authority, the properties of the authority, both real and personal, and all
252 revenue bonds, notes, and other forms of obligations issued by the authority shall be exempt
253 from all state and local taxes and special assessments of any kind.

254 **SECTION 15.**

255 Immunity from tort actions.

256 To the extent permitted by law, the authority shall have the same immunity and exemption
257 from liability for torts and negligence as the city. The officers, agents, and employees of the
258 authority, when in the performance of the work of the authority, shall have the same
259 immunity and exemption from liability for torts and negligence as the officers, agents, and
260 employees of the city when in the performance of their public duties or work of the city.

261 **SECTION 16.**

262 Property not subject to levy and sale.

263 The property of the authority shall not be subject to levy and sale under legal process.

264 **SECTION 17.**

265 Construction.

266 This Act, being for the welfare of the city and its inhabitants, shall be liberally construed to
267 carry out the purposes of the authority.

268 **SECTION 18.**

269 Scope of operations.

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

274 **SECTION 19.**

275 Conveyance of property upon dissolution.

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

278 **SECTION 20.**

279 Severability; effect of partial invalidity of Act.

280 Should any sentence, clause, phrase, or part of this Act be declared for any reason to be
281 unconstitutional or invalid, the same shall not affect such remainder of this Act or any part
282 hereof, other than the part so held to be invalid, but the remaining provisions of this Act shall
283 remain in full force and effect, and it is the express intention of this Act to enact each
284 provision of this Act independently of any other provision hereof.

285 **SECTION 21.**

286 General repealer.

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

288 **SECTION 22.**

289 Effective date.

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