

House Bill 253 (COMMITTEE SUBSTITUTE)

By: Representative Holmes of the 129<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Jones County Public Facilities Authority; to provide for the appointment of  
2 members of the authority; to provide for a short title; to confer powers upon the authority;  
3 to provide for purpose and scope of operations of the authority; to provide for definitions;  
4 to authorize the issuance of revenue bonds of the authority; to fix and provide the venue and  
5 jurisdiction of actions relating to any provisions of this Act; to provide for moneys received  
6 and trust funds; to provide for tort immunity; to provide for tax exemption, rates, charges,  
7 and revenues; to provide for effect on other governments; to provide for construction of this  
8 Act and severability; to provide for related matters; to provide for an effective date; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Short title.

13 This Act shall be known and may be cited as the "Jones County Public Facilities Authority  
14 Act."

H. B. 253 (SUB)

**SECTION 2.**

## Jones County Public Facilities Authority.

(a) There is hereby created a public body corporate and politic to be known as the "Jones County Public Facilities Authority," which shall be deemed to be an instrumentality of the state and a public corporation, and by that name, style, and title such body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity. The authority shall have perpetual existence.

(b) The authority shall consist of five members who shall be appointed by the Board of Commissioners of Jones County. Members of the Board of Commissioners of Jones County may be appointed to the authority. With respect to the initial appointment, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all appointments shall be made for terms of three years and until successors are appointed and qualified. Immediately after such appointments, the members of the authority shall enter upon their duties. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age and a resident of Jones County, Georgia, for at least two years prior to the date of his or her appointment and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself. A member may be removed from office by the board of commissioners for failure to perform the appropriate duties of membership. The county administrator and finance director for the county shall serve as ex officio members of the authority and shall act as nonvoting members.

(c) The board of commissioners of the county may provide by resolution for compensation for the services of the members of the authority in such amounts as the board of commissioners deem appropriate; provided, however, that such members shall be reimbursed for their actual expense necessarily incurred in the performance of their duties.

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

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

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### **SECTION 3.**

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#### **Definitions.**

52 As used in this Act, the term:

53 (1) "Authority" means the Jones County Public Facilities Authority created by this Act.

54 (2) "County" means Jones County, Georgia.

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

64 (4) "Project" means all buildings, facilities, and equipment necessary or convenient for  
65 the efficient operation of the county, the Jones County School System, or any

66 municipality within the county, or any department, agency, division, or commission  
67 thereof permitted by the Revenue Bond Law or this Act.

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

70 (6) "Revenue bonds" means revenue bonds authorized to be issued pursuant to the  
71 Revenue Bond Law or this Act.

72 (7) "Self-liquidating" means any project from which the revenues and earnings to be  
73 derived by the authority therefrom, including, but not limited to, any contractual  
74 payments with governmental or private entities, and all properties used, leased, and sold  
75 in connection herewith, together with any grants, will be sufficient to pay the costs of  
76 operating, maintaining, and repairing the project and to pay the principal and interest on  
77 the revenue bonds or other obligations which may be issued for the purpose of paying the  
78 costs of the project.

79 (8) "State" means the State of Georgia.

#### 80 **SECTION 4.**

#### 81 **Powers.**

82 The authority shall have the power:

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

84 (2)(a) To acquire by purchase, lease, gift, condemnation, or otherwise and to hold,  
85 operate, maintain, lease, and dispose of real and personal property of every kind and  
86 character for its corporate purposes;

87 (b) To acquire in its own name by purchase on such terms and conditions and in such  
88 manner as it may deem proper or by condemnation in accordance with the provisions of  
89 any and all existing laws applicable to the condemnation of property for public use, real  
90 property, or rights or easements therein, or franchises necessary or convenient for its

91 corporate purposes; to use the same so long as its corporate existence shall continue; and  
92 to lease or make contracts with respect to the use of or disposal of the same in any  
93 manner it deems to the best advantage of the authority. The authority shall be under no  
94 obligation to accept and pay for any property condemned under this Act except from the  
95 funds provided under the authority of this Act. In any proceedings to condemn, such  
96 orders may be made by the court having jurisdiction of the suit, action, or proceedings  
97 as may be just to the authority and to the owners of the property to be condemned. No  
98 property shall be acquired under the provisions of this Act upon which any lien or  
99 encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of  
100 money is to be deposited in trust to pay and redeem the fair value of such lien or  
101 encumbrance;

102 (3) To appoint, select, and employ officers, agents, and employees, including  
103 engineering, architectural, and construction experts, fiscal agents, and attorneys, and to  
104 fix their respective compensations;

105 (4) To execute contracts, leases, installment sale agreements, and other agreements and  
106 instruments necessary or convenient in connection with the acquisition, construction,  
107 addition, extension, improvement, equipping, operation, or maintenance of a project; and  
108 any and all persons, firms, corporations, Jones County, the Jones County School District,  
109 and any other political subdivision or municipal corporation of the State of Georgia  
110 located in Jones County are hereby authorized to enter into contracts, leases, installment  
111 sale agreements, and other agreements or instruments with the authority upon such terms  
112 and for such purposes as they deem advisable and as they are authorized by law;

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

115 (6) To pay the costs of the project with the proceeds of revenue bonds or other  
116 obligations issued by the authority or from any grant or contribution from the United  
117 States or any agency or instrumentality thereof or from this state or any agency or any

118 instrumentality or other political subdivision thereof or from any other source  
119 whatsoever;

120 (7) To accept loans or grants of money, materials, or property of any kind from the  
121 United States or any agency or instrumentality thereof, upon such terms and conditions  
122 as the United States or such agency or instrumentality may require;

123 (8) To accept loans or grants of money, materials, or property of any kind from this state  
124 or any agency or instrumentality or political subdivision or municipal corporation thereof,  
125 upon such terms and conditions as this state or such agency or instrumentality or political  
126 subdivision or municipal corporation may require;

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

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

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

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

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

138 **SECTION 5.**

139 Revenue bonds.

140 The authority, or any authority or body which has or which may in the future succeed to the  
141 powers, duties, and liabilities vested in the authority created by this Act, shall have power  
142 and is authorized, pursuant to this Act, to provide by resolution for the issuance of revenue

143 bonds of the authority for the purpose of paying all or any part of the costs of a project and  
144 for the purpose of refunding revenue bonds or other obligations previously issued; provided,  
145 however, that no such revenue bonds shall be issued to finance a project for the Jones County  
146 School District or any other political subdivision or municipal corporation of the state located  
147 within Jones County other than Jones County without the approval of the board of  
148 commissioners. Revenue bonds shall be undertaken, issued, priced, validated, sold, paid,  
149 redeemed, refunded, secured, and replaced in accordance with the provisions of this Act.

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**SECTION 6.**

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Revenue bonds; conditions precedent to issuance.

152 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the  
153 resolution, the authority shall determine that the project financed with the proceeds of such  
154 revenue bonds is self-liquidating. Revenue bonds may be issued without any other  
155 proceedings or the happening of any other conditions or things other than those proceedings,  
156 conditions, and things which are specified or required by this Act. Any resolution providing  
157 for the issuance of revenue bonds under the provisions of this Act shall become effective  
158 immediately upon its passage and need not be published or posted, and any such resolution  
159 may be passed at any regular, special, or adjourned meeting of the authority by a majority  
160 of its members present and voting.

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**SECTION 7.**

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Credit not pledged.

163 Revenue bonds of the authority shall not be deemed to constitute a debt of Jones County, the  
164 Jones County School System, any municipality located within the county, or the State of  
165 Georgia, nor a pledge of the faith and credit of this state or such county, but such revenue

166 bonds shall be payable solely from the fund hereinafter provided for. The issuance of such  
167 revenue bonds shall not directly, indirectly, or contingently obligate this state or such county  
168 to levy or pledge any form of taxation whatsoever for payment of such revenue bonds or to  
169 make any appropriation for their payment, and all such revenue bonds shall contain recitals  
170 on their face covering substantially the foregoing provisions of this section.  
171 Notwithstanding the foregoing provisions, this Act shall not affect the ability of the authority  
172 and any political subdivision to enter into an intergovernmental contract pursuant to which  
173 the political subdivision agrees to pay amounts sufficient to pay operating charges and other  
174 costs of the authority or any project including, without limitation, the principal of and interest  
175 on revenue bonds in consideration for services or facilities of the authority.

176 **SECTION 8.**

177 Trust indenture as security.

178 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust  
179 indenture by and between the authority and a corporate trustee, which may be any trust  
180 company or bank having the powers of a trust company within or without this state. Either  
181 the resolution providing for the issuance of the revenue bonds or such trust indenture may  
182 contain such provisions for protecting and enforcing the rights and remedies of the  
183 bondholders as may be reasonable and proper and not in violation of law, including  
184 covenants setting forth the duties of the authority in relation to the acquisition and  
185 construction of the project, the maintenance, operation, repair, and insuring of the project,  
186 and the custody, safeguarding, and application of all money.



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**SECTION 9.**

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Trust indenture as security; remedies of bondholders.

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

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**SECTION 10.**

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Trust indenture as security; validation.

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Revenue bonds and the security therefor shall be issued, confirmed, and validated in accordance with the provisions of the Revenue Bond Law. The petition for validation shall also make Jones County, the Jones County School System, or any municipality within the county, party defendant to such action if such government has contracted with the authority for services or facilities relating to the project for which revenue bonds are to be issued and sought to be validated, and such defendant shall be required to show cause, if any exists, as to why such contract or contracts shall not be adjudicated as a part of the basis for the security for the payment of any such revenue bonds. The revenue bonds, when validated, and the judgment of validation shall be final and conclusive with respect to such revenue

210 bonds and the security for the payment thereof and interest thereon and against the authority  
211 and all other defendants.

212 **SECTION 11.**

213 To whom proceeds of bonds shall be paid.

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

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220 **SECTION 12.**

221 Sinking fund.

222 The money received pursuant to an intergovernmental contract and the revenues, fees, tolls,  
223 fines, charges, and earnings derived from any particular project or projects, regardless of  
224 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a  
225 particular project for which revenue bonds have been issued, unless otherwise pledged and  
226 allocated, may be pledged and allocated by the authority to the payment of the principal and  
227 interest on revenue bonds of the authority as the resolution authorizing the issuance of the  
228 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever  
229 source received may be set aside at regular intervals as may be provided in the resolution or  
230 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with  
231 the payment of:

232 (1) The interest upon such revenue bonds as the same shall fall due;

233 (2) The principal or purchase price of such revenue bonds as the same shall fall due;

234 (3) Any premium upon such revenue bonds as the same shall fall due;  
235 (4) The purchase of such revenue bonds in the open market; and  
236 (5) The necessary charges of the paying agent for paying principal and interest.  
237 The use and disposition of such sinking fund shall be subject to such regulations as may be  
238 provided in the resolution authorizing the issuance of the revenue bonds or in the trust  
239 indenture, but, except as may otherwise be provided in such resolution or trust indenture,  
240 such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds  
241 without distinction or priority of one over another.

242 **SECTION 13.**  
243 Venue and jurisdiction.

244 Any action to protect or enforce any rights under the provisions of this Act or any suit or  
245 action against such authority shall be brought in the Superior Court of Jones County, and any  
246 action pertaining to validation of any revenue bonds issued under the provisions of this Act  
247 shall likewise be brought in said court which shall have exclusive, original jurisdiction of  
248 such actions.

249 **SECTION 14.**  
250 Interest of bondholders protected.

251 While any of the revenue bonds issued by the authority remain outstanding, the powers,  
252 duties, or existence of such authority or its officers, employees, or agents shall not be  
253 diminished or impaired in any manner that will affect adversely the interests and rights of the  
254 holders of such revenue bonds; and no other entity, department, agency, or authority shall  
255 be created which will compete with the authority to such an extent as to affect adversely the  
256 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete

257 with the authority. The provisions of this Act shall be for the benefit of the authority and the  
258 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the  
259 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

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**SECTION 15.**

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Money received considered trust funds.

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

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**SECTION 16.**

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Purpose of the authority; reversion upon dissolution.

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(a) The authority is created for the purpose of promoting the public good and general welfare  
of the citizens of the Jones County, and financing and providing facilities, equipment, and  
services within the county, for sale to, lease or sublease to, ownership, or operation by the  
county, county school district, or any municipality located within the county, as otherwise  
authorized by law.

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

274 **SECTION 17.**

275 Rates, charges, and revenues; use.

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

282 **SECTION 18.**

283 Tort immunity.

284 To the extent permitted by law, the authority shall have the same immunity and exemption  
285 from liability for torts and negligence as Jones County; and the officers, agents, and  
286 employees of the authority when in the performance of the work of the authority shall have  
287 the same immunity and exemption from liability for torts and negligence as the officers,  
288 agents, and employees of Jones County when in the performance of their public duties or  
289 work of the county.

290 **SECTION 19.**

291 Tax exemption.

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

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**SECTION 20.**

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Effect on other governments.

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

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**SECTION 21.**

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Liberal construction of Act.

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This Act, being for the welfare of various political subdivisions of this state and its inhabitants, shall be liberally construed to effect the purposes hereof.

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**SECTION 22.**

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Severability; effect of partial invalidity of Act.

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The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

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**SECTION 23.**

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Effective date.

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

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**SECTION 24.**

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General repealer.

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