

Senate Bill 638

By: Senators Anderson of the 43rd and Strickland of the 17th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To create the Rockdale County Public Facilities Authority; to provide a short title; to confer
2 powers and duties on the authority; to provide for the membership and the appointment of
3 members of the authority and their terms of office, duties, and powers; to provide for
4 vacancies, organization, meetings, and expenses; to provide for definitions; to provide for
5 the issuance and sale of revenue bonds and other obligations and their negotiability and sale
6 and use of proceeds from such sales; to provide for conditions for issuance of such
7 obligations; to prohibit the pledge of credit for the payment of bonds; to provide for trust
8 indentures; to provide for payment of bond proceeds; to provide for bondholder remedies and
9 protection; to provide for refunds of bonds; to provide for bond validation; to provide for
10 venue and jurisdiction; to provide for trust funds; to provide for the authority's purpose; to
11 provide for charges; to provide for rules and regulations; to provide for tort immunity; to
12 provide for tax status; to provide for supplemental powers; to provide for the dissolution of
13 the authority on a date certain; to provide for reversion of assets of the authority; to provide
14 for effect on other governments; to provide for liberal construction; to provide for
15 severability; to provide for related matters; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 638

- 1 -

17 **SECTION 1.**

18 Short title.

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

21 **SECTION 2.**

22 Rockdale County Public Facilities Authority.

23 (a) There is hereby created a public body corporate and politic to be known as the "Rockdale
24 County Public Facilities Authority," which shall be deemed to be a political subdivision of
25 the State and a public corporation, and by that name, style, and title, said body may contract
26 and be contracted with, sue and be sued, implead and be impleaded, and complain and defend
27 in all courts of law and equity. The authority shall have perpetual existence.

28 (b) The authority shall consist of five members. One member shall be appointed by the
29 chairperson of the board of commissioners. One member shall be appointed by the members
30 of the board of commissioners other than the chairperson. Two members shall be appointed
31 by the chief judge of the Superior Court of Rockdale County. One member shall be
32 appointed by the district attorney for the county. The chief judge, district attorney, and
33 members of the board of commissioners shall not be appointed as members of the authority.
34 With respect to the initial appointment of the members, two members shall be appointed for
35 a term of three years, two members shall be appointed for a term of two years, and one
36 member shall be appointed for a term of one year. Thereafter, all appointments shall be
37 made for terms of three years and until successors are appointed and qualified. The members
38 may be removed for cause. Immediately after such appointments the members of the
39 Authority shall enter upon their duties. To be eligible for appointment as a member of the
40 Authority, a person shall be at least 21 years of age, shall be a resident of the county for at

41 least two years prior to the date of his or her appointment, and shall not have been convicted
42 of a felony. Any member of the authority may be selected and appointed to succeed himself
43 or herself.

44 (c) The members shall not be compensated for their services; provided, however, that such
45 members shall be reimbursed for their actual expenses necessarily incurred in the
46 performance of their duties.

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

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

57

SECTION 3.

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Definitions.

59 As used in this Act, the term:

60 (1) "Authority" means the Rockdale County Public Facilities Authority created by this Act.

61 (2) "Board of Commissioners" means the Rockdale County Board of Commissioners.

62 (3) "County" means Rockdale County, Georgia.

63 (4) "Costs of the project" means and embraces the cost of construction; the cost of all
64 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
65 equipment; financing charges; interest prior to and during construction and for six months

66 after completion of construction; the cost of engineering, architectural, fiscal agents,
67 accounting, legal, plans, and specifications and expenses necessary or incidental to
68 determining the feasibility or practicability of the project; administrative expenses; working
69 capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip,
70 operate, maintain, or finance the project.

71 (5) "Project" means:

72 (A) All buildings, facilities, and equipment necessary or convenient for the efficient
73 operation of the county or any department, agency division, or commission thereof; or

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

75 (6) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., or
76 any other similar law hereinafter enacted.

77 (7) "Revenue Bonds" means revenue bonds authorized to be issued pursuant to this Act.

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

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

86 **SECTION 4.**

87 Powers.

88 The authority shall have the power:

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

- 90 (2) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,
91 maintain, lease, and dispose of real and personal property of every kind and character for
92 its corporate purposes;
- 93 (3) To acquire, construct, add to, extend, improve, equip, operate, maintain, lease, and
94 dispose of projects;
- 95 (4) To execute contracts, leases, installment sale agreements, and other agreements and
96 instruments necessary or convenient in connection with the acquisition, construction,
97 addition, extension, improvement, equipping, operation, maintenance, disposition, or
98 financing of a project;
- 99 (5) To appoint, select, and employ officers, agents, and employees, including, but not
100 limited to, engineering, architectural, and construction experts, fiscal agents, and attorneys,
101 and fix their respective compensations;
- 102 (6) To pay the costs of the project with the proceeds of revenue bonds, notes, or other
103 forms of obligations issued by the authority, from any grant or contribution from the United
104 States of America or any agency or instrumentality thereof, or from the state or any agency,
105 instrumentality, municipality, or political subdivision thereof or from any other source
106 whatsoever;
- 107 (7) To pledge to the payment of revenue bonds, notes, and other forms of obligations
108 issued by the authority, and any and all revenues and properties of the authority, both real
109 and personal;
- 110 (8) To accept loans or grants of money, materials, or property of any kind from the United
111 States of America or any agency or instrumentality thereof, upon such terms and conditions
112 as the United States of America or such agency or instrumentality may require;
- 113 (9) To accept loans or grants of money, materials, or property of any kind from the state
114 or any agency, instrumentality, municipality, or political subdivision thereof, upon such
115 terms and conditions as the state or such agency, instrumentality, municipality, or political
116 subdivision may require;

117 (10) To borrow money for any of its corporate purposes and to issue and execute revenue
118 bonds, notes, and other forms of obligations, deeds to secure debt, security agreements and
119 such other instruments as may be necessary or convenient to evidence and secure such
120 borrowing;

121 (11) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner
122 in which its business is transacted;

123 (12) To prescribe rules, regulations, and service policies and procedures for the operation
124 of any project;

125 (13) To exercise any power usually possessed by private corporations performing similar
126 functions; and

127 (14) To do all things necessary or convenient to carry out the powers expressly given in
128 this Act.

129

SECTION 5.

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Issuance of revenue bonds.

131 The authority shall have the power and is hereby authorized to provide by resolution for the
132 issuance of revenue bonds for the purpose of paying all or any part of the costs of the project
133 and for the purpose of refunding revenue bonds or other obligations previously issued. The
134 principal of and interest on such revenue bonds shall be payable solely from the revenues and
135 properties pledged to the payment of such revenue bonds. The revenue bonds issued by the
136 authority shall contain such terms as the authority shall determine are in the best interest of
137 the authority; provided, however, no revenue bonds shall have a maturity exceeding 40 years.

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SECTION 6.

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Revenue bond signatures and seal.

140 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
141 vice-chairperson of the authority and the attesting manual or facsimile signature of the
142 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of
143 the authority shall be impressed or imprinted thereon. In case any officer whose signature
144 shall appear on any revenue bond shall cease to be such officer before the delivery of such
145 revenue bond, such signature shall nevertheless be valid and sufficient for all purposes, the
146 same as if that person had remained in office until such delivery.

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SECTION 7.

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Revenue bonds negotiability; taxation status.

149 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
150 of negotiable instruments under the laws of the state. All revenue bonds, their transfer, and
151 the income therefrom shall be exempt from all taxation within the state as provided by
152 general law.

153

SECTION 8.

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Conditions precedent to issuance of revenue bonds.

155 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In such
156 resolution, the authority shall determine that the project financed or refinanced with the
157 proceeds of the revenue bonds is self-liquidating. Prior to the adoption of the resolution
158 authorizing the issuance of revenue bonds, the authority shall hold a public hearing. A notice
159 of the public hearing shall be published in a paper of general circulation in the county.

160 Revenue bonds may be issued without any other proceedings or the happening of any other
161 conditions other than those proceedings and conditions which are specified or required by
162 this Act. Any resolution providing for the issuance of revenue bonds under the provisions
163 of this Act shall become effective immediately upon its passage and need not be published
164 or posted, and any such resolution may be passed at any regular, special, adjourned meeting
165 of the authority.

166 **SECTION 9.**

167 Credit not pledged.

168 Revenue bonds shall not be deemed to constitute a debt of the state or the county nor a
169 pledge of the faith and credit of the state or the county. Revenue bonds shall be payable
170 solely from the revenues and properties pledged to the payment of such revenue bonds. The
171 issuance of revenue bonds shall not directly, indirectly, or contingently obligate the state or
172 the county to levy or to pledge any form of taxation whatsoever for the payment of such
173 revenue bonds or to make any appropriation for their payment. All revenue bonds shall
174 contain recitals on their face covering substantially the foregoing provisions of this section.
175 Notwithstanding the foregoing provisions, this Act shall not affect the ability of the authority
176 and the county from entering into an intergovernmental contract pursuant to the county
177 agreement to pay amounts sufficient to pay operating charges and other costs of the authority
178 or any project including, without limitation, the principal of and interest on revenue bonds,
179 in consideration for services or facilities of the authority.

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SECTION 10.

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Trust indenture as security.

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

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SECTION 11.

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Remedies of bondholders.

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

202 **SECTION 12.**

203 Validation.

204 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
205 the procedure of the Revenue Bond Law. The petition for validation shall also make party
206 defendant to such action the county if the county has contracted with the authority for
207 services or facilities relating to the project for which revenue bonds are to be issued and
208 sought to be validated, and such defendant shall be required to show cause, if any exists, why
209 such contract or contracts shall not be adjudicated as a part of the basis for the security for
210 the payment of any such revenue bonds. The revenue bonds when validated, and the
211 judgment of validation, shall be final and conclusive with respect to such revenue bonds and
212 the security for the payment thereof and interest thereon and against the authority and all
213 other defendants.

214 **SECTION 13.**

215 Interest of bondholders.

216 While any of the revenue bonds issued by the authority remain outstanding, the powers,
217 duties, or existence of the authority or its officers, employees, or agents, shall not be
218 diminished or impaired in any manner that will affect adversely the interests and rights of the
219 holders of such revenue bonds, and no other entity, department, agency, or authority will be
220 created which will compete with the authority to such an extent as to affect adversely the
221 interests and rights of the holders of such revenue bonds. The provisions of this Act shall be
222 for the benefit of the authority and the holders of any such revenue bonds, and upon the
223 issuance of such revenue bonds under the provisions hereof, shall constitute a contract with
224 the holders of such revenue bonds.

225

SECTION 14.

226

Venue and jurisdiction.

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

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SECTION 15.

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Monies received considered trust funds.

234 All monies received pursuant to the authority of this Act, whether as proceeds from the sale
235 of revenue bonds, as grants or other contributions, or as revenue, income, fees, and earnings,
236 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; scope of operations.

239 Without limiting the generality of any provision of this Act, the general purpose of the
240 authority is declared to be that of providing public buildings, facilities, equipment, and
241 services for the citizens in the county. The scope of operations of the authority shall be
242 limited to the boundaries of the county.

243 **SECTION 17.**

244 Tort immunity.

245 To the extent permitted by law, the authority shall have the same immunity and exemption
246 from liability for torts and negligence as the county. The officers, agents, and employees of
247 the authority when in the performance of the work of the authority shall have the same
248 immunity and exemption from liability for torts and negligence as the officers, agents, and
249 employees of the county when in the performance of their public duties or work of the
250 county.

251 **SECTION 18.**

252 Authority tax status.

253 The income of the authority, the properties of the authority, both real and personal, and all
254 revenue bonds, notes, and other forms of obligations issued by the authority shall, to the
255 extent permitted by general, law be exempt from all state and local taxes and special
256 assessments of any kind.

257 **SECTION 19.**

258 Dissolution and reversion of assets.

259 The authority shall be abolished on January 1, 2065, and the authority shall not enter into any
260 obligations that extend beyond such date. Upon the dissolution of the authority, all assets
261 owned by the authority shall become property of the county subject to any property rights
262 vested in other parties.

263 **SECTION 20.**

264 Effect on other governments.

265 This Act shall not and does not in any way take from the county the authority to own,
266 operate, and maintain public facilities or to issue revenue bonds as provided by the Revenue
267 Bond Law.

268 **SECTION 21.**

269 Limitation on indebtedness.

270 If the authority issues revenue bonds or any other debt for the benefit of the county, the
271 annual debt service on such debt shall not exceed ten percent of the county's general fund
272 revenues, and the total value of such revenue bonds and other debts shall not exceed \$110
273 million.

274 **SECTION 22.**

275 Liberal construction of act.

276 This Act, being for the welfare of the state, the county, and the inhabitants thereof, shall be
277 liberally construed to effect the purposes hereof.

278 **SECTION 23.**

279 Severability; effect of partial invalidity of Act.

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

283

SECTION 24.

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