

House Bill 526 (AS PASSED HOUSE AND SENATE)

By: Representatives Willard of the 51st, Riley of the 50th, Wilkinson of the 52nd, Geisinger of the 48th, Martin of the 49th, and others

A BILL TO BE ENTITLED
AN ACT

1 To create the North Fulton Regional Radio System Authority; to provide a short title; to
2 provide a declaration of need; to provide for membership of the authority; to provide for a
3 quorum and voting; to define certain terms; to provide for the powers of the authority; to
4 provide that indebtedness of the authority shall not constitute debt to the establishing local
5 governments; to provide for venue of actions relating to any provisions of this Act; to
6 provide for the purpose of the authority; to provide that the authority may establish rates and
7 collect revenues for services; to provide for rules, regulations, and policies; to provide for tort
8 immunity; to provide for exemptions from certain taxes; to provide for an effective date; to
9 repeal 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 "North Fulton Regional Radio System
14 Authority Act."

15 **SECTION 2.**

16 Declaration of need.

17 It is declared that there exists a need for a North Fulton Regional Radio System Authority
18 to function without profit in developing and promoting for the public good certain
19 communication facilities and services in order to provide an interoperable, high quality, and
20 reliable and uninterrupted communication signal for public safety and public services and for
21 the other purposes expressed in this Act.

SECTION 3.

North Fulton Regional Radio System Authority.

(a) There is hereby created a public body corporate and politic to be known as the "North Fulton Regional Radio System Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style, and title said 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 four members, to include the following: (1) the city manager of the City of Sandy Springs, Georgia, or his or her designee; (2) the city manager of the City of Milton, Georgia, or his or her designee; (3) the city administrator of the City of Alpharetta, Georgia, or his or her designee; (4) and the city administrator of the City of Roswell, Georgia, or his or her designee. Additional members who are city managers or city administrators of other municipalities, or their designees, may be added to the authority by unanimous agreement of the existing members, subject to such additional municipalities paying a share of capital investment as approved by the existing members, in which event such additional municipalities shall be included within the area in which the authority has operational capability. To be eligible to serve as a member of the authority, a person shall be at least 21 years of age, shall have been a resident of this state for at least 12 months prior to the date of his or her appointment and shall continue such residency during his or her term of office, and shall not have been convicted of a felony.

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

(d) The members of the authority shall elect one of their number as chairperson and another as vice chairperson. The chairperson shall preside over the regular and special meetings of the authority. In the event that the chairperson is not in attendance, the vice chairperson shall preside. The members of the authority shall also elect a secretary, and may also elect a treasurer, who need not be members of the authority. The secretary and treasurer shall not be the chairperson or vice chairperson. The secretary may also serve as treasurer. If either the secretary or the treasurer is not a member of the authority, such officer shall have no voting rights. Each of such officers shall serve for a period of one year and until their successors are duly elected and qualified.

(e) A majority of the members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all of the rights and perform all

58 of the duties of the authority. Any action which requires approval of the authority shall be
 59 by majority vote of those members present, provided that a quorum is present. In the event
 60 of a tie vote, the vote of each member who cast a vote on the question shall be weighted
 61 according to the share of total capital investment made in the authority by the municipality
 62 such member represents as compared to the total capital investment made by all
 63 municipalities represented by members of the authority, and the votes as so weighted shall
 64 be recalculated accordingly to determine the approval or failure of the motion.

65 **SECTION 4.**

66 Definitions.

67 As used in this Act, the term:

68 (1) "Authority" means the North Fulton Regional Radio System Authority created by this
 69 Act.

70 (2) "Capital investment" means the amount of funds contributed to the purchasing and
 71 installation of start-up equipment for the authority.

72 (3) "Costs of the project" means and embraces the cost of construction; the cost of all
 73 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
 74 equipment; financing charges; interest prior to and during construction and for six months
 75 after completion of construction; the cost of engineering, architectural, fiscal agents' and
 76 legal expenses, plans and specifications, licensing fees and costs, and other expenses
 77 necessary or incidental to determining the feasibility or practicability of the project;
 78 administrative expenses and such other expenses as may be necessary or incident to the
 79 financing herein authorized; working capital; and all other costs necessary to acquire,
 80 construct, add to, extend, improve, equip, operate, and maintain the project.

81 (4) "County" means any county created under the Constitution or laws of this state.

82 (5) "Establishing local governments" shall mean the mayors and councils of the Cities
 83 of Alpharetta, Milton, Roswell, and Sandy Springs, Georgia.

84 (6) "Local government" or "local governing authority" means any municipal corporation
 85 or county or any state or local authority, board, or political subdivision created by the
 86 General Assembly or pursuant to the Constitution and laws of this state.

87 (7) "Obligation" means any indebtedness, including, without limitation, any note, lease,
 88 contract, or other evidence of indebtedness.

89 (8) "Project" means the acquisition, construction, installation, modification, renovation,
 90 repair, extension, renewal, replacement, or rehabilitation of land, interest in land,
 91 buildings, structures, facilities, or other improvements and the acquisition, installation,
 92 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or

93 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
 94 whatsoever used on, in, or in connection with any such land, interest in land, building,
 95 structure, facility, or other improvement, all for the essential public purpose of providing
 96 facilities and services permitted by the obligation to meet needs and standards for radio
 97 communication for public safety and public services within the area of operational
 98 capability of the authority and to aid in the accomplishment of the purposes of the
 99 authority.

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

101 SECTION 5.

102 Powers.

103 The authority shall have the power:

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

105 (2) To acquire by purchase, lease, gift, or otherwise and to hold, operate, maintain, lease,
 106 and dispose of real and personal property of every kind and character for its corporate
 107 purposes;

108 (3) To acquire in its own name by purchase, on such terms and conditions and in such
 109 manner as it may deem proper, real property or rights or easements therein or franchises
 110 necessary or convenient for its corporate purposes, to use the same so long as its
 111 corporate existence shall continue, to lease or make contracts with respect to the use of
 112 the same, or to dispose of the same in any manner it deems to the best advantage of the
 113 authority;

114 (4) To appoint, select, and employ officers, agents, and employees, including
 115 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
 116 their compensations;

117 (5) To execute contracts, leases, installment sale agreements, and other agreements and
 118 instruments necessary or convenient in connection with the acquisition, construction,
 119 addition, extension, improvement, equipping, operation, or maintenance of a project; and
 120 any and all persons, firms and corporations, local governments, and any other political
 121 subdivision of the state located within the operational area of the authority are hereby
 122 authorized to enter into contracts, leases, installment sale agreements, and other
 123 agreements or instruments with the authority upon such terms and for such purposes as
 124 they deem advisable and as they are authorized by law;

125 (6) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,
 126 and dispose of projects;

- 127 (7) To pay the costs of the project with the proceeds of any grant or contribution from
128 the United States of America or any agency or instrumentality thereof or from the state
129 or any agency or instrumentality or other political subdivision thereof or from any other
130 source whatsoever;
- 131 (8) To finance projects and facilities of the authority for the furtherance of the purposes
132 of the authority within the geographic area over which the authority has operational
133 capability by loan, loan guarantee, grant, lease, or otherwise and to pay the cost of such
134 from any funds of the authority or from any contributions or loans by persons,
135 corporations, partnerships, whether limited or general, or other entities, all of which the
136 authority is authorized to receive, accept, and use. The authority shall be deemed to have
137 operational capability within the geographic boundaries of each establishing local
138 government as well as within the geographic boundaries of any local government that
139 subsequently becomes a member of the authority or contracts for services with the
140 authority;
- 141 (9) To sell or pledge any obligation acquired by it whenever it is determined by the
142 authority that the sale thereof is desirable;
- 143 (10) To accept loans and grants of money or materials or property of any kind from the
144 United States of America or any agency or instrumentality thereof, upon such terms and
145 conditions as the United States of America or such agency or instrumentality may
146 require;
- 147 (11) To accept loans and grants of money or materials or property of any kind from the
148 state or any agency or instrumentality or political subdivision thereof, upon such terms
149 and conditions as the state or such agency or instrumentality or political subdivision may
150 require;
- 151 (12) To borrow money for any of its corporate purposes and to provide for the payment
152 of the same and for the rights of the holders thereof;
- 153 (13) To exercise any power granted by the laws of this state to public or private
154 corporations which is not in conflict with the public purpose of the authority, including
155 the power to incur short-term debt and to approve, execute, and deliver appropriate
156 evidence of any such indebtedness; and
- 157 (14) To do all things necessary or convenient to carry out the powers expressly given in
158 this Act.

159 **SECTION 6.**

160 Credit not pledged.

161 Obligations of the authority shall not be deemed to constitute a debt of the establishing local
162 governments nor a pledge of the faith and credit of said establishing local governments. The
163 issuance of such obligations shall not directly, indirectly, or contingently obligate said
164 establishing local governments to levy or to pledge any form of taxation whatsoever for
165 payment of such obligations or to make any appropriation for their payment, and all such
166 obligations shall contain recitals on their face covering substantially the foregoing provisions
167 of this section. Notwithstanding the foregoing provisions, this Act shall not affect the ability
168 of the authority and any political subdivision or municipality to enter into an
169 intergovernmental contract pursuant to which the political subdivision or municipality agrees
170 to pay amounts sufficient to pay operating charges and other costs of the authority or any
171 project including, without limitation, the principal of and interest on obligations in
172 consideration for services or facilities of the authority.

173 **SECTION 7.**

174 Venue.

175 Any action to protect or enforce any rights under the provisions of this Act or any suit or
176 action against the authority shall be brought in the Superior Court of Fulton County, Georgia.

177 **SECTION 8.**

178 Moneys received considered trust funds.

179 All moneys received pursuant to the authority of this Act, whether as grants or other
180 contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds
181 to be held and applied solely as provided in this Act.

182 **SECTION 9.**

183 Purpose of the authority.

184 Without limiting the generality of any provision of this Act, the general purpose of the
185 authority is declared to be that of providing for the development of a regional communication
186 system for public safety and public service use to guarantee interoperability, high quality,
187 and reliable and uninterrupted communication signals through facilities, equipment, and
188 services for the establishing local governments by contract, including other persons, entities,

189 and local governments who may hereinafter contract and agree for services from the
190 authority. The general purposes of the authority shall not restrict the authority from
191 developing and servicing any persons, entities, or local governments who may contract for
192 the authority to develop communication services or facilities, or both, in other areas where
193 operational capacity is deemed necessary or desirable.

194 **SECTION 10.**

195 Rates, charges, and revenues; use.

196 The authority is hereby authorized to prescribe and fix rates and to revise the same from time
197 to time and to collect revenues, tolls, fees, and charges for the services, facilities, and
198 commodities furnished, and in anticipation of the collection of the revenues, to incur
199 indebtedness as herein provided to finance, in whole or in part, the costs of the project.

200 **SECTION 11.**

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

202 It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations,
203 service policies, and procedures for the operation of any project constructed or acquired
204 under the provisions of this Act. The authority may adopt bylaws.

205 **SECTION 12.**

206 Tort immunity.

207 To the extent otherwise permitted by law, the authority shall have the same immunity and
208 exemption from liability for torts and negligence as a political subdivision of the state; and
209 the officers, agents, and employees of the authority when in the performance of the work of
210 the authority shall have the same immunity and exemption from liability for torts and
211 negligence as the officers, agents, and employees of a political subdivision of the state when
212 in the performance of their public duties or work for a political subdivision of this state.

213 **SECTION 13.**

214 Tax-exempt status of authority.

215 The properties of the authority, both real and personal, are declared to be public properties
216 used for the benefit and welfare of the people of the state and not for purposes of private or
217 corporate benefit and income, and such properties and the authority shall be exempt from

218 taxes and special assessments of the state or any political subdivision thereof to the extent
219 allowed by general law.

220 **SECTION 14.**

221 Effect on other governments.

222 This Act shall not and does not in any way take from the establishing local governments or
223 any political subdivision of the state the authority to own, operate, and maintain public
224 facilities or to issue obligations.

225 **SECTION 15.**

226 Liberal construction of Act.

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

229 **SECTION 16.**

230 Effective date.

231 This Act shall become effective on July 1, 2013.

232 **SECTION 17.**

233 Repealer.

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