

House Bill 1651

By: Representatives Snelling of the 99<sup>th</sup> and Hembree of the 98<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend the "Douglasville-Douglas County Water and Sewer Authority Act," approved  
2 March 7, 1985 (Ga. L. 1985, p. 3584), as amended, so as to provide for the membership of  
3 the board of directors of the authority and quorum; to establish certain definitions; to provide  
4 for the issuance of such debt instruments as are permitted by law; to establish the power of  
5 the authority to enter intergovernmental agreements to provide storm-water management  
6 services and acquire, construct, equip, operate, maintain, own, and improve storm-water  
7 facilities and to implement programs and regulations for water quality protection and water  
8 conservation; to provide for the creation of related entities and subsidiaries of the authority;  
9 to provide for tort immunity; to provide for related matters; to repeal conflicting laws; and  
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 The "Douglasville-Douglas County Water and Sewer Authority Act," approved March 7,  
14 1985 (Ga. L. 1985, p. 3584), as amended, is amended by striking in their entirety subsections  
15 (b), (c), and (d) of Section 3 and inserting in lieu thereof the following:

16 "(b) The authority board of directors shall be composed of eight members, five to be  
17 appointed by mutual agreement and decision of the mayor of the City of Douglasville and  
18 the chairperson of the Douglas County Board of Commissioners. The mayor of the City of  
19 Douglasville, the chairperson of the Douglas County Board of Commissioners, and the  
20 chairperson of the board of education of Douglas County shall serve as ex officio members  
21 with full voting rights as members of the authority. The five appointed members of the  
22 authority shall be selected by the following method: the mayor of the City of Douglasville  
23 and the chairperson of the Douglas County Board of Commissioners shall each select ten  
24 prospective members, two each from each of the five general school districts in Douglas  
25 County as constituted on March 7, 1985. By mutual agreement and process of elimination,  
26 the mayor and the chairperson shall arrive at a total of five members, one from each of the

1 five school districts, to serve staggered terms as follows: one member for one year, one  
2 member for two years, one member for three years, one member for four years, and one  
3 member for five years. After completion of the initial terms specified in this section, each  
4 term shall be for a period of five years. The mayor and chairperson shall be voting  
5 members of the board of directors by virtue of their elected positions without regard to  
6 length of term. Members appointed prior to the effective date of this subsection shall be  
7 considered as appointed in accordance with this section. At the end of the term of office  
8 of any member so appointed or in the event of death, removal, or resignation of any  
9 member prior to the conclusion of his or her term in office, the successor member shall be  
10 appointed on a rotating basis by either the mayor and council for the City of Douglasville  
11 or the Douglas County Board of Commissioners using the procedure outlined in this  
12 subsection. The City of Douglasville and the Douglas County Board of Commissioners  
13 shall rotate in the position of originating governing body, which body shall compile a list  
14 of qualified applicants to be submitted to the appointing governing body for consideration.  
15 Thirty days prior to the normal expiration of a member's term or within 30 days following  
16 the death, removal, or resignation prior to the completion of the term of office, the  
17 originating body shall provide to the appointing body a list nominating a maximum of three  
18 competent, qualified persons to be considered for appointment to serve on the authority  
19 board of directors, one of whom may be the individual whose term is expiring. The  
20 appointing body may by majority vote choose to make an appointment from the list of  
21 names so provided within 30 days from receipt of names. Failure of the appointing body  
22 to select a nominee by resolution adopted by majority vote in the specified time period or  
23 rejection of the names so provided shall require the appointing body to compile a list of a  
24 maximum of three names to be submitted to the originating body for its consideration. The  
25 originating body may make an appointment from such list of persons by majority vote.  
26 Failure of the originating body to make an appointment from this list shall require the two  
27 lists of names compiled by the originating body and the appointing body to be combined  
28 and submitted to the senior judge of the Superior Court of Douglas County. The senior  
29 judge shall make an appointment from the combined lists. Appointees to the authority shall  
30 represent the county at large and shall be selected on the basis of competence and fair  
31 representation of the varied interests of the entire county. Normal terms for all appointed  
32 members of the authority board of directors shall commence on April 3 following  
33 appointment and terminate on April 2 of the year in which the term of office expires. If at  
34 the end of any term of office of any member a successor thereto shall not have been  
35 selected, then the member whose term of office shall have expired shall continue to hold  
36 office and be a full voting member until his or her successor shall be so selected.

1 (c) Immediately after the passage of this Act and the appointment of the members by the  
 2 governing bodies of the City of Douglasville and Douglas County, the members of the  
 3 authority shall enter upon their duties and, as soon as is practicable thereafter, they shall  
 4 hold an organizational meeting. The members of the authority shall elect one of their  
 5 number as chairperson and another as vice chairperson. Neither the mayor of the City of  
 6 Douglasville, the chairperson of the Douglas County Board of Commissioners, nor the  
 7 chairperson of the board of education of Douglas County shall serve as chairperson or vice  
 8 chairperson of the authority. The members shall also elect a secretary and a treasurer, or  
 9 a secretary-treasurer, who need not be members of the authority. An assistant secretary may  
 10 also be elected at the discretion of the authority. Five members of the authority shall  
 11 constitute a quorum. No vacancy on the authority shall impair the authority of the quorum  
 12 to exercise the rights and powers of and perform all of the duties and obligations of the  
 13 authority. The members of the authority shall receive the same expense allowance per day  
 14 as that received by members of the General Assembly for each meeting of the authority  
 15 actually attended as compensation for their services and shall be reimbursed for their actual  
 16 expenses necessarily incurred in the performance of their duties. The authority may make  
 17 rules and regulations and adopt bylaws for its own government. The authority shall have  
 18 perpetual existence.

19 (d) Any appointed member of the board of directors of the authority who qualifies as a  
 20 candidate for public office must resign from the board at the time of his or her  
 21 qualification. No member of the authority board of directors appointed to fill full or partial  
 22 terms following the effective date of this subsection shall serve more than two consecutive  
 23 terms, except the individuals serving as mayor of the City of Douglasville, chairperson of  
 24 the Douglas County Board of Commissioners, and chairperson of the board of education  
 25 of Douglas County."

## 26 SECTION 2.

27 Said Act is further amended by striking in its entirety paragraphs (2), (4), (5), and (6) of  
 28 Section 4 and inserting in lieu thereof the following:

29 "(2) 'Dog River Drainage Basin' means all that tract or parcel of land lying and being in  
 30 the unincorporated area of Douglas County, Georgia, the boundaries of which are  
 31 generally described as follows:

32 BEGINNING at the point of intersection of the centerline of U. S. Highway 78 and the  
 33 common boundary of Douglas County and Carroll County; proceeding thence in an  
 34 easterly direction along the centerline of U. S. Highway 78 to its intersection with the  
 35 centerline of Bright Star Road; proceeding thence in a southerly direction along the  
 36 centerline of Bright Star Road to its intersection with the centerline of Central Church

1 Road; proceeding thence in a southeasterly direction along the centerline of Central  
 2 Church Road to its intersection with the centerline of Georgia Highway 5; proceeding  
 3 thence in a southerly direction along the centerline of Georgia Highway 5 to its  
 4 intersection with the centerline of Big A Road; proceeding thence in a southerly  
 5 direction along the centerline of Big A Road to its intersection with the centerline of  
 6 Georgia Highway 166; proceeding thence in an easterly direction along the centerline  
 7 of Georgia Highway 166 to its intersection with the centerline of South River Road;  
 8 proceeding thence in a southerly direction along the centerline of South River Road to  
 9 its intersection with the northern land lot line of Land Lot 7 of the 3rd District and 5th  
 10 Section of Douglas County, Georgia; proceeding thence west along said northern  
 11 boundary of Land Lot 7 to the point which marks the common corner of Land Lots 7,  
 12 8, 13, and 14 of the 3rd District and 5th Section; proceeding thence south along the  
 13 common boundary of Land Lots 7 and 14 to the point which marks the common corner  
 14 of Land Lots 6, 7, 14, and 15 of the 3rd District and 5th Section; proceeding thence  
 15 south along the common boundary of Land Lots 6 and 15 to its intersection with the  
 16 centerline of the Chattahoochee River; proceeding thence in a southwesterly direction  
 17 along the centerline of the Chattahoochee River to its intersection with the western  
 18 boundary of Land Lot 17 of the 3rd District and 5th Section; proceeding thence north  
 19 along the common boundary of Land Lot 17 and 30 to the point which marks the  
 20 common corner of Land Lots 17, 18, 29, and 30 of the 3rd District and 5th Section;  
 21 proceeding thence north along the common boundary of Land Lots 18 and 29 to its  
 22 intersection with the centerline of Five Notch Road; proceeding thence in a  
 23 northwesterly direction along the centerline of Five Notch Road to its intersection with  
 24 the centerline of Georgia Highway 166; proceeding thence in a westerly direction along  
 25 the centerline of Georgia Highway 166 to its intersection with the common boundary  
 26 of Douglas County and Carroll County; and proceeding generally in a northerly  
 27 direction along said Douglas County/Carroll County line to its intersection with the  
 28 centerline of U. S. Highway 78 and the POINT OF BEGINNING."

29 "(4) 'Project' means and includes the planning, design, acquisition, construction, and  
 30 management of systems, plants, reservoirs, works, instrumentalities, and property and all  
 31 appurtenances thereto and including lands, easements, rights in land, water rights,  
 32 contract rights, franchises, dams, reservoirs, pumping stations, treatment facilities,  
 33 generating stations, detention and retention facilities, water mains, sanitary sewers, storm  
 34 sewers and drainage structures: (A) used or useful in connection with a water supply and  
 35 distribution system, (B) used or useful in connection with a sanitary sewerage system, (C)  
 36 used or useful in connection with a comprehensive storm-water management system, and

1 (D) used or useful in connection with a water quality program, water conservation  
2 program, or both.

3 (5) 'Revenue bonds' and 'bonds' means revenue bonds authorized to be issued pursuant  
4 to this Act. Revenue bonds may be issued by the authority as authorized in this Act  
5 without any other actions or proceedings. Nothing in this Act shall prohibit the authority  
6 from issuing other debt instruments permitted by law.

7 (6) 'Self-liquidating' means a project where, in the sole judgment of the authority, the  
8 revenues and earnings to be derived by the authority therefrom, including but not limited  
9 to any contractual payments, and all properties used, leased, and sold in connection  
10 therewith, together with any grants, will be sufficient to pay the cost of operating,  
11 maintaining, repairing, improving, and extending the project and to pay the principal and  
12 interest of the revenue bonds which may be issued for the cost of such project or  
13 projects."

### 14 SECTION 3.

15 Said Act is further amended by striking subsections (b), (d), (f) through (h), (j), (l), and (m)  
16 of Section 5 and inserting in lieu thereof the following:

17 "(b) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of real  
18 and personal property of every kind and character for its corporate purposes;"

19 "(d) To enter into an agreement with the City of Douglasville, with Douglas County, or  
20 with any other political subdivision or municipal corporation of the state with respect to  
21 acquiring a source of water supply, providing waste-water service, providing storm-water  
22 management services, preparing engineering data, plans, and specifications for water,  
23 waste-water, or storm-water systems, providing for the testing and inspection of facilities  
24 constructed, providing for rates to be charged for water, waste-water, and storm-water  
25 services furnished to users and those benefiting from said systems, providing for the  
26 reading of meters and keeping of pertinent records, and apportioning or designating the  
27 responsibility for any functions normally maintained by water, waste-water, or storm-water  
28 systems at the most reasonable cost possible;"

29 "(f) To make contracts or leases and to execute all instruments necessary or convenient,  
30 including contracts for construction of projects and leases of projects or contracts with  
31 respect to the use of projects which it causes to be erected or acquired, and any and all  
32 persons, firms, and corporations and any and all political subdivisions, departments,  
33 institutions, or agencies of the state and all special districts and all municipal corporations  
34 located in Douglas County are authorized to enter into contracts, leases, or agreements with  
35 the authority upon such terms and for such purposes as they deem advisable; and, without  
36 limiting the generality of the above, authority is specifically granted to municipal

1 corporations, special districts, and counties and to the authority to enter contracts, lease  
2 agreements, or other undertakings relative to the furnishing of water, waste-water, and  
3 storm-water services and facilities, or any of them, by the authority to such municipal  
4 corporations, special districts, and counties for a term not exceeding 50 years. As to any  
5 political subdivision, department, institution, or agency of this state and all special districts  
6 and municipal corporations located in Douglas County which shall enter into an agreement  
7 under the authority granted herein or in subsection (d) above, the obligation to perform and  
8 fulfill such agreement shall constitute a general obligation of such entity for which its full  
9 faith and credit shall be and is pledged;

10 (f.1) In addition to and without limiting the generality of subsection (f) of this section, the  
11 authority shall have the right to enter into contracts, agreements, leases, or other  
12 instruments necessary or convenient with any political subdivision, department, institution,  
13 or agency of this state and all special districts and municipal corporations located in  
14 Douglas County for the purpose of enabling the authority to perform any functions  
15 pertaining to the protection of the water, waste-water, and storm-water systems in Douglas  
16 County, Georgia, that may have been exercised by any such political subdivision,  
17 department, institution, or agency of this state and all special districts and municipal  
18 corporations located in Douglas County, including, but not limited to, the right to regulate,  
19 monitor, inspect, and repair water, waste-water, or storm-water systems and related  
20 appurtenances and facilities, pump stations, on-site sanitary sewerage facilities, septic  
21 tanks, grease traps, pretreatment facilities, retention and detention facilities, and any and  
22 all other related equipment, facilities, and systems;

23 (g) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,  
24 equip, operate, and manage projects, as hereinabove defined, the cost of any such project  
25 to be paid in whole or in part from the proceeds of revenue bonds of the authority or other  
26 debt instrument, revenues of the systems, user fees, and any grant or payment from the  
27 United States of America or any agency or instrumentality thereof or from the State of  
28 Georgia or any agency, instrumentality, or political subdivision thereof;

29 (h) To make loans with, and accept grants or loans of money or materials or property of  
30 any kind from, the United States of America or any agency or instrumentality thereof, upon  
31 such terms and conditions as the United States of America or such agency or  
32 instrumentality may impose;"

33 "(j) To borrow money for any of its corporate purposes; to issue negotiable revenue bonds  
34 payable solely from funds pledged for that purpose, to issue other debt provided by law,  
35 and to provide for the payment of the same and for the rights of the holders thereof;"

36 "(l) To inspect all on-site sewage disposal systems which have been installed on property  
37 for which the authority provides water service in the Dog River Drainage Basin as defined

1 in paragraph (2) of Section 4 of this Act for the purpose of ensuring the proper operation  
 2 of such systems; to have the right of entry to go onto such property for the purposes of  
 3 inspecting on-site sewage disposal systems and repairing such systems under the authority  
 4 granted by this subsection; to recommend repairs to such systems which are necessary, in  
 5 the opinion of the authority, to make such systems operate properly; to perform such  
 6 repairs as the authority considers necessary to make such systems operate properly in the  
 7 event that the property owner fails or refuses to perform the repairs recommended by the  
 8 authority; or to discontinue water service if determined, in the sole discretion of the  
 9 authority, appropriate; to assess the cost of any repairs performed by the authority or its  
 10 agents against the owner of the property on which such repairs were performed and to  
 11 impose a lien for the costs of such repairs upon the real estate records of the clerk of the  
 12 Superior Court of Douglas County or to proceed with any other action to collect such sums;  
 13 and to take any action in any court to enforce the provisions of this subsection;

14 (m) To implement programs and regulations to protect water quality;

15 (n) To implement programs and regulations for water conservation purposes;

16 (o) To create, establish, acquire, operate, and control separate and distinct subsidiaries or  
 17 affiliated entities, whether for profit or nonprofit, which shall maintain their own financial  
 18 structures, rules and regulations, and assets and liabilities which the authority determines  
 19 to be consistent with and in furtherance of the purposes set forth in this Act and in the best  
 20 interest of the authority; and

21 (p) To do all things necessary or convenient to carry out the powers expressly given in this  
 22 Act."

23 **SECTION 4.**

24 Said Act is further amended by striking Sections 5A and 6 and inserting in lieu thereof the  
 25 following:

26 "SECTION 5A.

27 Determinations of drainage.

28 The authority shall have the power to determine whether a parcel of real property is located  
 29 within or outside the boundaries of the Dog River Drainage Basin as defined in paragraph  
 30 (2) of Section 4 of this Act and to determine whether the drainage from such parcel of real  
 31 property flows within or outside the Dog River Drainage Basin. Such determinations shall  
 32 be made upon the certification of a licensed Georgia professional engineer or hydrologist.  
 33 If a parcel of real property which is determined to be located either within or outside the  
 34 Dog River Drainage Basin drains into such basin, the authority shall be authorized to

1 exercise those powers provided under subsection (1) of Section 5 with respect to such  
2 parcel.

3 **SECTION 6.**

4 Financing projects.

5 The authority, or any authority or body which has or which may in the future succeed to  
6 the powers, duties, and liabilities vested in the authority created hereby, shall have power  
7 and is authorized at one time, or from time to time, to borrow money for the purpose of  
8 paying all or any part of the cost, as herein defined, of any one or more projects and to  
9 provide by resolution for issuance of negotiable revenue bonds for that purpose. The  
10 principal and interest of such revenue bonds shall be payable solely from the special fund  
11 herein provided for such payment. The bonds of each issue shall be dated, shall mature at  
12 such time or times not exceeding 30 years from their date or dates, shall be payable in such  
13 a medium of payment as to both principal and interest as may be determined by the  
14 authority, and may be made redeemable before maturity, at the option of the authority, at  
15 such price or prices and under such terms and conditions as may be fixed by the authority  
16 in the resolution providing for the issuance of the bonds. The interest rate or rates to be  
17 borne by any bonds and the time of payment of such interest shall be fixed, and, with  
18 respect to any interest rate which floats in response to a variable the method of calculation,  
19 shall be fixed by the authority in the resolution providing for the issuance of the bonds.  
20 Any bonds issued by the authority shall be exempt from all laws of the State of Georgia  
21 governing usury or prescribing or limiting interest rates to be borne by bonds or other  
22 obligations. Nothing in this Act shall limit the ability of the authority to issue other debt  
23 instruments provided by law."

24 **SECTION 5.**

25 Said Act is further amended by striking Section 14 and inserting in lieu thereof the following:

26 "SECTION 14.

27 Same; conditions precedent to issuance; object of issuance.

28 Such revenue bonds may be issued without any other proceedings or the happening of any  
29 other conditions or things than those proceedings, conditions, and things which are  
30 specified or required by this Act. In the discretion of the authority, revenue bonds of a  
31 single issue may be issued for the purpose of any particular project. Any resolution  
32 providing for the issuance of revenue bonds under the provisions of this Act shall become

1 effective immediately upon its passage and need not be published or posted, and any such  
 2 resolution may be passed at any regular, special, or called meeting of the authority by a  
 3 majority of the quorum as provided in this Act."

4 **SECTION 6.**

5 Said Act is further amended by striking in their entirety Sections 24, 25, 26, and 26A and  
 6 inserting in lieu thereof the following:

7 "SECTION 24.

8 Moneys received considered trust funds.

9 All moneys received by the authority pursuant to this Act, whether as proceeds from the  
 10 sale of revenue bonds, as proceeds of short-term loans, as grants or other contributions, or  
 11 as revenues, fees, and earnings, shall be deemed to be trust funds to be held and applied  
 12 solely as provided in this Act.

13 SECTION 25.

14 Purpose of the authority.

15 Without limiting the generality of any provisions of this Act, the general purpose of the  
 16 authority is declared to be that of acquiring, equipping, constructing, maintaining, and  
 17 operating adequate water supply treatment and distribution facilities, waste-water  
 18 collection and treatment facilities, and storm-water management facilities, and making such  
 19 facilities and the services thereof available to public and private consumers, users, and  
 20 benefiteres located in the City of Douglasville, Douglas County, and their environs,  
 21 including municipalities inside and outside the said county and to adjoining counties,  
 22 extending and improving such facilities and doing all things deemed by the authority  
 23 necessary, convenient, and desirable for and incident to the efficient and proper  
 24 development and operation for such type of undertakings.

25 SECTION 26.

26 Rates, charges, and revenues; use.

27 The authority is authorized to prescribe and fix and collect rates, fees, tolls, or charges and  
 28 to revise from time to time and collect such rates, fees, tolls, or charges for the services,  
 29 facilities, or commodities furnished and, in anticipation of the collection of the revenues  
 30 of such undertaking or project, to issue revenue bonds as herein provided to finance in

1 whole or in part the cost of the acquisition, construction, reconstruction, improvement,  
2 betterment, or extension of the water, waste-water, and storm-water systems and to pledge  
3 to the punctual payment of said bonds and interest thereon all or any part of the revenues  
4 of such undertaking or project, including the revenues of improvements, betterments, or  
5 extension thereto thereafter made.

6 **SECTION 26A.**

7 The authority shall have the right to impose liens upon the real property of customers of the  
8 authority who receive service from the authority, either for water, waste-water, or  
9 storm-water services, and the aforesaid liens may be recorded upon the general execution  
10 docket maintained by the clerk of the Superior Court of Douglas County, Georgia. The  
11 authority shall have all rights of recovery and collection against the property owner and the  
12 actual customer utilizing the services or receiving the benefits of the authority as shall be  
13 provided by law."

14 **SECTION 7.**

15 Said Act is further amended by striking Section 28 and inserting in its place the following:

16 "SECTION 28.

17 Rules and regulation for operations of projects.

18 It shall be the duty of the authority to prescribe rules and regulations for the operation of  
19 the project or projects constructed under the provisions of this Act."

20 **SECTION 8.**

21 Said Act is further amended by inserting a new Section 30A to read as follows:

22 "SECTION 30A.

23 Immunity from tort actions.

24 The authority shall have the same immunity and exemption from liability for torts and  
25 negligence as the State of Georgia, and the officers, agents, and employees of the authority,  
26 when in the performance of work of the authority, shall have the same immunity and  
27 exemption from liability for torts and negligence as officers, agents, and employees of the  
28 State of Georgia. The authority may be sued the same as private corporations on any  
29 contractual obligation of the authority."

1

**SECTION 9.**

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