

House Bill 756

By: Representatives Smith of the 103<sup>rd</sup>, Westmoreland of the 104<sup>th</sup>, Brown of the 130<sup>th</sup> and Yates of the 106<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Coweta County Water and Sewerage Authority and to provide for the  
2 appointment of members of the authority; to confer powers upon the authority, including the  
3 power to acquire, construct, add to, extend, improve, equip, operate, and maintain systems,  
4 plants, works, instrumentalities, and properties used or useful in connection with the  
5 obtaining of a water supply and the conservation, treatment, distribution, disposal, and sale  
6 of water for public and private uses or used or useful in connection with the collection,  
7 treatment, and disposal of sewage, waste and storm water and the power to contract with  
8 others and to do all things necessary or convenient for the acquisition, construction, addition,  
9 extension, improvement, equipping, operation, or maintenance of any project; to authorize  
10 the issuance of revenue bonds of the authority payable from the revenues, tolls, fees, fines,  
11 charges, and earnings of the authority, contract payments to the authority, and from other  
12 moneys pledged therefor and authorize the collection and pledging of the revenues, tolls,  
13 fees, fines, charges, and earnings of the authority for the payment of such revenue bonds; to  
14 authorize the execution of resolutions and trust indentures to secure the payment of the  
15 revenue bonds of the authority and to define the rights of the holders of such obligations; to  
16 make the revenue bonds of the authority exempt from taxation; to fix and provide the venue  
17 and jurisdiction of actions relating to any provisions of this Act; to provide for the validation  
18 of bonds; to provide for severability; to provide an effective date; to repeal an Act  
19 authorizing the creation of the Coweta County Water and Sewer Authority, approved April  
20 11, 1979 (Ga. L. 1979, p. 4447); to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Short title.

24 This Act shall be known and may be cited as the "Coweta County Water and Sewerage  
25 Authority Act."

H. B. 756

**SECTION 2.**

## Coweta County Water and Sewerage Authority.

(a) There is hereby created a public body corporate and politic to be known as the "Coweta County Water and Sewerage 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 three members who shall be appointed by the Board of Commissioners of Coweta County, Georgia. All appointments shall be made for terms of one year 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 Coweta County, Georgia, for at least two years prior to the date of his or her appointment. No member of the authority shall be eligible to hold an elective public office of the state or any county or municipality within the state unless first resigning as a member of the authority. No person shall be eligible for appointment to the authority who has been convicted of a felony, who is serving in an elected public office of the state or any county or municipality within the state, who is an employee of the state or any county or municipality within the state, or who is an employee of a utility system not operated by the authority or Coweta County. Any member of the authority may be selected and appointed to succeed himself or herself.

(c) The appointing Board of Commissioners of Coweta County, Georgia, 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 members of the authority shall also elect a secretary, who need not be a member of the authority, and may also elect a treasurer, who need not be a member of the authority. The secretary may also serve as treasurer. If the secretary or treasurer is not a member of the authority, such officers 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) Two 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 of the duties of the authority.



1 the revenue bonds or other obligations which may be issued for the purpose of paying the  
2 costs of the project.

3 (7) "State" means the State of Georgia.

#### 4 SECTION 4.

#### 5 Powers.

6 The authority shall have the power:

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

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

11 (3) To acquire in its own name by purchase on such terms and conditions and in such  
12 manner as it may deem proper, or by condemnation in accordance with the provisions of  
13 any and all existing laws applicable to the condemnation of property for public use, real  
14 property or rights or easements therein, or franchises necessary or convenient for its  
15 corporate purposes, and to use the same so long as its corporate existence shall continue,  
16 and to lease or make contracts with respect to the use of or dispose of the same in any  
17 manner it deems to the best advantage of the authority, the authority shall be under no  
18 obligation to accept and pay for any property condemned under this Act except from the  
19 funds provided under the authority of this Act, and in any proceedings to condemn, such  
20 orders may be made by the court having jurisdiction of the suit, action, or proceedings  
21 as may be just to the authority and to the owners of the property to be condemned. No  
22 property shall be acquired under the provisions of this Act upon which any lien or  
23 encumbrance exists, unless, at the time such property is so acquired a sufficient sum of  
24 money is to be deposited in trust to pay and redeem the fair value of such lien or  
25 encumbrance;

26 (4) To combine its water facilities, storm water, and sewerage facilities into one system  
27 and to operate and maintain its facilities as such;

28 (5) To appoint, select, and employ officers, agents, and employees, including  
29 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix  
30 their respective compensations;

31 (6) To execute contracts, leases, agreements, and instruments necessary or convenient  
32 in connection with the acquisition, construction, addition, extension, improvement,  
33 equipping, operation, or maintenance of a project. Any and all persons, firms, and  
34 corporations and the state and any institution, department, or other agency thereof, and  
35 any county, municipality, school district, or other political subdivision or authority of the

1 State are authorized to enter into contracts, leases, agreements, or instruments with the  
2 authority upon such terms and for such purposes as they deem advisable and as they are  
3 authorized to enter into by law;

4 (7) To acquire, construct, add to, extend, improve, equip, operate, and maintain projects;

5 (8) To pay the costs of the project with the proceeds of revenue bonds or other  
6 obligations issued by the authority or from any grant or contribution from the United  
7 States of America or any agency or instrumentality thereof or from the state or any  
8 agency or instrumentality or other political subdivision thereof or from any other source  
9 whatsoever;

10 (9) To accept loans or grants of money or materials or property of any kind from the  
11 United States of America or any agency or instrumentality thereof upon such terms and  
12 conditions as the United States of America or such agency or instrumentality may  
13 require;

14 (10) To accept loans or grants of money or materials or property of any kind from the  
15 state or any agency or instrumentality or political subdivision thereof upon such terms  
16 and conditions as the state or such agency or instrumentality or political subdivision may  
17 require;

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

20 (12) To exercise any power usually possessed by private corporations performing similar  
21 functions, including the power to incur short-term debt and to approve, execute, and  
22 deliver appropriate evidence of any such indebtedness, provided that such power is not  
23 in conflict with the Constitution and laws of the state; and

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

## 26 SECTION 5.

### 27 Revenue bonds.

28 The authority, or any authority or body which has or which may in the future succeed to the  
29 powers, duties, and liabilities vested in the authority created by this Act, shall have power  
30 and is authorized to provide by resolution for the issuance of revenue bonds of the authority  
31 for the purpose of paying all or any part of the costs of the project and for the purpose of  
32 refunding revenue bonds or other obligations previously issued. The principal of and interest  
33 on such revenue bonds shall be payable solely from the special fund provided in this Act for  
34 such payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate  
35 or rates per annum payable at such time or times, shall mature at such time or times not

1 exceeding 40 years from their date or dates, shall be payable in such medium of payment as  
2 to both principal and interest as may be determined by the authority, and may be redeemable  
3 before maturity, at the option of the authority, at such price or prices and under such terms  
4 and conditions as may be fixed by the authority in the resolution for the issuance of such  
5 revenue bonds.

6 **SECTION 6.**

7 Same; form; denomination; registration; place of payment.

8 The authority shall determine the form of the revenue bonds and shall fix the denomination  
9 or denominations of the revenue bonds. The revenue bonds may be issued in coupon or  
10 registered form, or both, as the authority may determine, and provision may be made for  
11 registration and exchangeability privileges. The authority shall fix the place or places of  
12 payment of principal and interest thereon, which may be at any bank or trust company within  
13 or outside the state.

14 **SECTION 7.**

15 Same; signatures; seal.

16 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or  
17 vice chairperson of the authority and the attesting manual or facsimile signature of the  
18 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of  
19 the authority shall be impressed or imprinted thereon. Any coupons attached thereto shall  
20 bear the manual or facsimile signatures of the chairperson or vice chairperson and the  
21 secretary, assistant secretary, or secretary-treasurer of the authority. Any revenue bonds or  
22 coupons attached thereto may bear the manual or facsimile signatures of such persons as at  
23 the actual time of the execution of such revenue bonds or coupons shall be duly authorized  
24 or hold the proper office, although at the date of issuance of such revenue bonds such persons  
25 may not have been so authorized or shall not have held such office. In case any officer  
26 whose signature shall appear on any revenue bond or any coupon shall cease to be such  
27 officer before the delivery of such revenue bond, such signature shall nevertheless be valid  
28 and sufficient for all purposes in the same manner as if that person had remained in office  
29 until such delivery.

**SECTION 8.**

Same; negotiability; exemption from taxation.

All revenue bonds shall have and are declared to have all the qualities and incidents of negotiable instruments under the laws of the state. All revenue bonds, their transfer, and the income therefrom shall be exempt from all taxation within the state.

**SECTION 9.**

Same; sale; price; proceeds.

The authority may sell revenue bonds in such manner and for such price as it may determine to be in the best interest of the authority. The proceeds derived from the sale of revenue bonds shall be used solely for the purpose provided in the resolutions and proceedings authorizing the issuance of such revenue bonds.

**SECTION 10.**

Same; interim receipts and certificates or temporary bonds.

Prior to the preparation of any definitive revenue bonds, the authority may, under like restrictions, issue interim receipts, interim certificates, or temporary revenue bonds, with or without coupons, exchangeable for definitive revenue bonds upon the issuance of the latter.

**SECTION 11.**

Same; replacement of lost or mutilated bonds.

The authority may provide for the replacement of any revenue bonds or coupons which shall become mutilated or be destroyed or lost.

**SECTION 12.**

Same; conditions precedent to issuance.

The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the resolution, the authority shall determine that the project financed with the proceeds of the revenue bonds is self-liquidating. Revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and things which are specified or required by this Act. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective

1 immediately upon its passage and need not be published or posted, and any such resolution  
2 may be passed at any regular or special or adjourned meeting of the authority by a majority  
3 of its members.

4 **SECTION 13.**

5 Credit not pledged.

6 Revenue bonds of the authority shall not be deemed to constitute a debt of Coweta County,  
7 Georgia, nor a pledge of the faith and credit of said county, but such revenue bonds shall be  
8 payable solely from the fund provided for in this Act. The issuance of such revenue bonds  
9 shall not directly, indirectly, or contingently obligate said county to levy or to pledge any  
10 form of taxation whatsoever for payment of such revenue bonds or to make any appropriation  
11 for their payment, and all such revenue bonds shall contain recitals on their face covering  
12 substantially the foregoing provisions of this section. Notwithstanding the foregoing  
13 provisions of this section, this Act shall not affect the ability of the authority and said county  
14 to enter into an intergovernmental contract pursuant to which said county agrees to pay  
15 amounts sufficient to pay operating charges and other costs of the authority or any project  
16 including, without limitation, the principal of and interest on revenue bonds in consideration  
17 for services or facilities of the authority.

18 **SECTION 14.**

19 Trust indenture as security.

20 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust  
21 indenture by and between the authority and a corporate trustee, which may be any trust  
22 company or bank having the powers of a trust company within or outside the state. Either  
23 the resolution providing for the issuance of the revenue bonds or such trust indenture may  
24 contain such provisions for protecting and enforcing the rights and remedies of the  
25 bondholders as may be reasonable and proper and not in violation of law, including  
26 covenants setting forth the duties of the authority in relation to the acquisition and  
27 construction of the project, the maintenance, operation, repair, and insuring of the project,  
28 and the custody, safeguarding, and application of all moneys.

**SECTION 15.**

To whom proceeds of bonds shall be paid.

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

**SECTION 16.**

Sinking fund.

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

- (1) The interest upon such revenue bonds as the same shall fall due;
- (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- (3) Any premium upon such revenue bonds as the same shall fall due;
- (4) The purchase of such revenue bonds in the open market; and
- (5) The necessary charges of the paying agent for paying principal and interest.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds without distinction or priority of one over another.

**SECTION 17.**

## Remedies of bondholders.

Any holder of revenue bonds or any of the coupons appertaining thereto and the trustee under the trust indenture, if any, except to the extent the rights given in this Act 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 under the laws of the state, including specifically but without limitation, the Revenue Bond Law, or granted under this Act 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.

**SECTION 18.**

## Validation.

Revenue bonds and the security therefor shall be confirmed and validated in accordance with the procedure of the Revenue Bond Law. The petition for validation shall also make party defendant to such action the state and any institution, department, or other agency of the state and any county, municipality, school district, or other political subdivision or authority of the state which 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. Such defendant shall be required to show cause, if any exists, 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 bonds and the security for the payment thereof and interest thereon and against the authority and all other defendants.

**SECTION 19.**

## Venue and jurisdiction.

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

**SECTION 20.**

Interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of said authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such revenue bonds, and no other entity, department, agency, or authority shall be created which will compete with the authority to such an extent as to affect adversely the interest and rights of the holders of such revenue bonds nor shall the state itself so compete with the authority. The provisions of this Act shall be for the benefit of the authority and the holders of any such revenue bonds and, upon the issuance of such revenue bonds under the provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

**SECTION 21.**

Moneys received considered trust funds.

All moneys 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.

**SECTION 22.**

Purpose of the authority.

Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of acquiring an adequate source or sources of water supply, treatment of such water, and thereafter the maintenance and distribution of the same to the various municipalities and citizens in Coweta County, Georgia, and environs, including other counties, municipalities, and authorities located therein, and further for the general purpose of gathering and treatment of sewerage and waste, both individual and industrial. Such general purpose shall not restrict the authority from selling and delivering water directly to consumers in those areas where there do not now exist water distribution systems or furnishing sewer facilities to such customers, and areas where neither any county nor municipality deems it desirable or feasible to furnish water in such locality. The authority shall also have the authority, where it deems it feasible, to sell its products and services to customers, governmental agencies, or governmental instrumentalities of adjoining states, providing the laws of the adjoining states do not prohibit or tax said activity.

**SECTION 23.**

Rates, charges, and revenues; use.

The authority is authorized to prescribe and fix rates and to revise same from time to time and to collect revenues, tolls, fees, fines, and charges for the services, facilities, and commodities furnished and, in anticipation of the collection of the revenues, to issue revenue bonds as provided in this Act to finance, in whole or in part, the cost of the project, and to pledge to the punctual payment of said revenue bonds and interest thereon, all or any part of the revenues.

**SECTION 24.**

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

It shall be the duty of the authority to prescribe rules, regulations, service policies, and procedures for the operation of any project or projects constructed or acquired under the provisions of this Act and intended to be operated by the authority, including the basis upon which water service and facilities, sewerage service and facilities, or both, shall be furnished. The authority may adopt bylaws in connection with the operation of any project or projects.

**SECTION 25.**

Tort immunity.

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

**SECTION 26.**

Tax-exempt status of authority.

The properties of the authority, both real and personal, are declared to be public properties used for the benefit and welfare of the people of the state and not for purposes of private or corporate benefit and income, and such properties and the authority shall be exempt from all taxes and special assessments of any municipality or county or the state or any political subdivision thereof.

**SECTION 27.**

Effect on other governments.

This Act shall not and does not in any way take from Coweta County, Georgia, or any municipality located therein or any other county or municipality the authority to own, operate, and maintain a water system, a sewerage system, or a combined water and sewerage system, or to issue revenue bonds as provided by the Revenue Bond Law.

**SECTION 28.**

Liberal construction of Act.

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

**SECTION 29.**

Severability; effect of partial invalidity of Act.

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.

**SECTION 30.**

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

**SECTION 31.**

Specific repeal.

An Act authorizing the creation of the Coweta County Water and Sewer Authority, approved April 11, 1979 (Ga. L. 1979, p. 4447), is repealed.

**SECTION 32.**

General repeal.

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