

House Bill 830

By: Representative Amerson of the 7th

A BILL TO BE ENTITLED
AN ACT

1 To create the City of Dahlonega Water and Sewerage Authority; to provide for a short title
2 and definitions; to confer powers and impose duties on the Authority; to provide for the
3 membership and the appointment of members of the Authority and their terms of office,
4 qualifications, duties, powers, and expenses; to provide for vacancies, organization,
5 meetings, and quorum; to provide for revenue bonds and their form, denominations,
6 signatures thereon, negotiability, sale, and use of proceeds from such sales; to provide for
7 interim documents and for lost or mutilated documents; to provide conditions for issuance;
8 to prohibit the pledge of credit for the payment of bonds; to provide for intergovernmental
9 contracts; to provide for trust indentures and sinking fund; to provide for payment of bond
10 proceeds; to provide for bondholder remedies and protection; to provide for refunding bonds;
11 to provide for bond validation; to provide for venue and jurisdiction; to provide for trust
12 funds; to provide for Authority purpose; to provide for charges; to provide for rules and
13 regulations; to provide for tort immunity; to provide for tax exemptions; to provide for
14 supplemental powers; to provide for effect on other governments; to provide for liberal
15 construction; to provide for an effective date; to repeal conflicting laws; and for other
16 purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Short title.

20 This Act shall be known and may be cited as the "City of Dahlonega Water and Sewerage
21 Authority Act."

SECTION 2.

City of Dahlonega Water and Sewerage Authority.

(a) There is created a public body corporate and politic to be known as the "City of Dahlonega 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 City Council of Dahlonega, Georgia. No more than one of such members may be a member of the City Council of Dahlonega, Georgia. With respect to the initial appointment by the City Council of Dahlonega, Georgia, one member shall be appointed for a term of three years, one member shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all appointments shall be made for terms of three years. Immediately after such appointments the members of the Authority shall enter upon their duties. Members of the Authority shall serve the terms specified and until their successors are appointed and qualified. Any vacancy on the Authority shall be filled in the same manner as the original appointment of the member whose office has become vacant and the person so appointed shall serve for the remainder of the unexpired term. 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 the City of Dahlonega, Georgia, for at least two years prior to the date of his or her appointment. No person shall be eligible for appointment to or to serve on the Authority who has been convicted of a felony or who is an employee of a utility system not operated by the Authority or the City of Dahlonega. Any member of the Authority may be selected and appointed to succeed himself or herself.

(c) The appointing City Council of Dahlonega, Georgia, may provide by resolution for compensation for the services of the members of the Authority in such amounts as they may deem appropriate and may provide that such members 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 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.

1 (e) Two members of the Authority shall constitute a quorum. No vacancy on the Authority
2 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
3 of the Authority.

4 SECTION 3.

5 Definitions.

6 As used in this Act, the term:

7 (1) "Authority" means the City of Dahlonega Water and Sewerage Authority created by
8 this Act.

9 (2) "Cost of the project" means and embraces the cost of construction; the cost of all
10 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
11 equipment; financing charges; interest prior to and during construction and for six months
12 after completion of construction; the cost of engineering, architectural, fiscal agents and
13 legal expenses, plans and specifications, and other expenses necessary or incidental to
14 determining the feasibility or practicability of the project; administrative expenses and
15 such other expenses as may be necessary or incident to the financing herein authorized;
16 working capital; and all other costs necessary to acquire, construct, add to, extend,
17 improve, equip, operate, and maintain the project.

18 (3) "Project" means:

19 (A) Systems, plants, works, instrumentalities, and properties used or useful in
20 connection with the obtaining of a water supply and the conservation, treatment,
21 distribution, disposal, and sale of water for public and private uses and used or useful
22 in connection with the collection, treatment, and disposal of sewage, waste water, and
23 storm water, together with all parts of any such system, plant, work, instrumentality,
24 and property and appurtenances thereto, including lands, easements, rights in land,
25 water rights, contract rights, franchises, approaches, dams, reservoirs, recreational
26 facilities adjacent to such reservoirs, generating stations, sewage disposal plants,
27 intercepting sewers, trunk connecting and other sewer and water mains, filtration
28 works, and pumping stations and equipment; and

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

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

32 (5) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

33 (6) "Self-liquidating" means any project from which the revenues and earnings to be
34 derived by the Authority, including but not limited to any contractual payments with
35 governmental or private entities, and all properties used, leased, and sold in connection

1 therewith, together with any grants, will be sufficient to pay the costs of operating,
2 maintaining, and repairing the project and to pay the principal and interest on the revenue
3 bonds or other obligations which may be issued for the purpose of paying the costs of the
4 project.

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

6 SECTION 4.

7 Powers.

8 The Authority shall have the power:

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

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

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

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

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

33 (6) To execute contracts, leases, agreements, and instruments necessary or convenient
34 in connection with the acquisition, construction, addition, extension, improvement,
35 equipping, operation, or maintenance of a project. Any and all persons, firms, and

1 corporations and the state, and any institution, department, or other agency thereof, and
2 any municipality, school district, or other political subdivision or authority of the state
3 are hereby authorized to enter into contracts, leases, agreements, or instruments with the
4 Authority upon such terms and for such purposes as they deem advisable and as they are
5 authorized by law;

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

7 (8) To pay the cost of the project with the proceeds of revenue bonds or other obligations
8 issued by the Authority, from any grant or contribution from the United States of
9 America or any agency or instrumentality thereof, from the state or any agency or
10 instrumentality or other political subdivision thereof, or from any other source
11 whatsoever;

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

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

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

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

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

28 **SECTION 5.**

29 Revenue bonds.

30 The Authority, or any authority or body which has or which may in the future succeed to the
31 powers, duties, and liabilities vested in the Authority created hereby, shall have power and
32 is hereby authorized to provide by resolution for the issuance of revenue bonds of the
33 Authority for the purpose of paying all or any part of the cost of the project and for the
34 purpose of refunding revenue bonds or other obligations previously issued. The principal of
35 and interest on such revenue bonds shall be payable solely from the special fund hereby

1 provided for such payment. The revenue bonds of each issue shall be dated, shall bear
2 interest at such rate or rates per annum, payable at such time or times, shall mature at such
3 time or times not exceeding 40 years from their date or dates, shall be payable in such
4 medium of payment as to both principal and interest as may be determined by the Authority
5 and may be redeemable before maturity, at the option of the Authority, at such price or prices
6 and under such terms and conditions as may be fixed by the Authority in the resolution for
7 the issuance of such revenue bonds.

8 **SECTION 6.**

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

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

16 **SECTION 7.**

17 Same; signatures; seal.

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

SECTION 8.

Same; negotiability; exemption from taxation.

All revenue bonds shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the laws of the state unless the same are issued in fully registered form. All revenue bonds, or other obligations of the Authority to pay moneys, 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 any 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

1 for the issuance of revenue bonds under the provisions of this Act shall become effective
2 immediately upon its passage and need not be published or posted, and any such resolution
3 may be passed at any regular or special or adjourned meeting of the Authority by a majority
4 of its members.

5 **SECTION 13.**

6 Credit not pledged.

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

19 **SECTION 14.**

20 Trust indenture as security.

21 In the discretion of the Authority, any issuance of revenue bonds may be secured by a trust
22 indenture by and between the Authority and a corporate trustee, which may be any trust
23 company or bank having the powers of a trust company within or outside the state. Either
24 the resolution providing for the issuance of the revenue bonds or such trust indenture may
25 contain such provisions for protecting and enforcing the rights and remedies of the
26 bondholders as may be reasonable and proper and not in violation of law, including
27 covenants setting forth the duties of the Authority in relation to the acquisition and
28 construction of the project, the maintenance, operation, repair, and insuring of the project,
29 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 in the trust indenture may provide, and 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 said sinking fund shall be pledged to and charged with the payment of:

- (1) The interest upon such revenue bonds as such interest 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 herein given 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 hereunder or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this Act or by such resolution or trust indenture to be performed by the Authority or any officer thereof, including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and services furnished.

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 thereof, and any city, 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, and 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.

Refunding bonds.

The Authority is authorized to provide by resolution for the issuance of bonds of the Authority for the purpose of funding or refunding any revenue bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon and premium, if any. The issuance of such funding or refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the Authority in

1 respect to the same shall be governed by the provisions of this Act insofar as the same may
2 be applicable.

3 **SECTION 20.**

4 Venue and jurisdiction.

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

10 **SECTION 21.**

11 Interest of bondholders protected.

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

21 **SECTION 22.**

22 Moneys received considered trust funds.

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

26 **SECTION 23.**

27 Purpose of the Authority.

28 Without limiting the generality of any provision of this Act, the general purpose of the
29 Authority is declared to be that of acquiring an adequate source or sources of water supply,

1 treatment of such water, and thereafter the maintenance and distribution of the same to the
2 various entities and citizens in the City of Dahlonega, Georgia, and environs, including but
3 not limited to other authorities located therein, and further for the general purpose of
4 gathering and treatment of sewerage and waste, both individual and industrial. Such general
5 purpose shall not restrict the Authority from selling and delivering water directly to
6 consumers in those areas where there do not now exist water distribution systems or
7 furnishing sewer facilities to such customers and areas where no municipality deems it
8 desirable or feasible to furnish water in such locality. The Authority shall also have the
9 authority, where it deems it feasible, to sell its products and services to customers,
10 governmental agencies, or governmental instrumentalities of adjoining states, provided that
11 the laws of the adjoining states do not prohibit or tax said activity.

12 **SECTION 24.**

13 Rates, charges, and revenues; use.

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

20 **SECTION 25.**

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

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

27 **SECTION 26.**

28 Tort immunity.

29 To the extent permitted by law, the Authority shall have the same immunity and exemption
30 from liability for torts and negligence as the City of Dahlonega, Georgia; and the officers,
31 agents, and employees of the Authority when in the performance of the work of the Authority

1 shall have the same immunity and exemption from liability for torts and negligence as the
2 officers, agents, and employees of the City of Dahlonega, Georgia, when in the performance
3 of their public duties or work of the city.

4 **SECTION 27.**

5 Tax-exempt status of Authority.

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

11 **SECTION 28.**

12 Effect on other governments.

13 This Act shall not and does not in any way take from the City of Dahlonega, Georgia, or any
14 other county or municipality the authority to own, operate, and maintain a water system, a
15 sewerage system, or a combined water and sewerage system, or to issue revenue bonds as
16 provided by the Revenue Bond Law.

17 **SECTION 29.**

18 Liberal construction of Act.

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

21 **SECTION 30.**

22 Effective date.

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

25 **SECTION 31.**

26 General repealer.

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