

Senate Bill 158

By: Senator Lee of the 29th

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To create the City of LaGrange Gas Authority and to provide for the appointment of
2 members of the authority; to confer powers upon the authority; to authorize the issuance of
3 revenue bonds of the authority payable from the revenues, tolls, fees, charges, and earnings
4 of the authority, contract payments to the authority, and other moneys pledged therefor and
5 to authorize the collection and pledging of the revenues, tolls, fees, charges, and earnings of
6 the authority for the payment of such revenue bonds; to authorize the execution of resolutions
7 and trust indentures to secure the payment of the revenue bonds of the authority and to define
8 the rights of the holders of such obligations; to fix and provide the venue and jurisdiction of
9 actions relating to any provisions of this Act; to provide for the validation of bonds; to
10 provide for a contingent effective date; to provide for automatic repeal under certain
11 circumstances; to repeal conflicting laws; and for other purposes.

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

13 **SECTION 1.**

14 Short title.

15 This Act shall be known and may be cited as the "City of LaGrange Gas Authority Act."

16 **SECTION 2.**

17 City of LaGrange Gas Authority.

18 (a) There is hereby created a public body corporate and politic to be known as the "City of
19 LaGrange Gas Authority," which shall be deemed to be a political subdivision of the state,
20 a public corporation, and an instrumentality of the City of LaGrange, and by that name, style,
21 and title said body may contract and be contracted with, sue and be sued, implead and be
22 impleaded, and complain and defend in all courts of law and equity. The authority shall be
23 authorized to operate on behalf of the City of LaGrange within Troup County with respect

1 to facilities, services, or commodities that are not provided, financed, or used pursuant or
2 subject to any contract entered into under Article IX, Section III, Paragraph I of the
3 Constitution of the State of Georgia, except with the City of LaGrange. The authority shall
4 have perpetual existence.

5 (b) The authority shall consist of five members who shall be appointed by the governing
6 authority of the City of LaGrange. In no event shall a member of the governing authority of
7 the City of LaGrange be appointed to or serve as a member of the authority. With respect to
8 the initial appointment by the governing authority of City of LaGrange, two members shall
9 be appointed for a term of three years; two members shall be appointed for a term of two
10 years; and one member shall be appointed for a term of one year. Thereafter, all
11 appointments shall be made for terms of three years and until successors are appointed and
12 qualified. Immediately after such appointments, the members of the authority shall enter
13 upon their duties. To be eligible for appointment as a member of the authority, a person shall
14 be at least 21 years of age and a resident of City of LaGrange, Georgia, for at least two years
15 prior to the date of his or her appointment and shall not have been convicted of a felony. Any
16 member of the authority may be selected and appointed to succeed himself or herself.

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

21 (d) The members of the authority shall elect one of their number as chairperson and another
22 as vice chairperson. The members of the authority shall also elect a secretary, who need not
23 be a member of the authority, and may also elect a treasurer, who need not be a member of
24 the authority. The secretary may also serve as treasurer. If the secretary or treasurer is not a
25 member of the authority, such officer shall have no voting rights. Each of such officers shall
26 serve for a period of one year and until their successors are duly elected and qualified.

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

30 **SECTION 3.**

31 **Definitions.**

32 As used in this Act, the term:

33 (1) "Authority" means the City of LaGrange Gas Authority created by this Act.

34 (2) "Costs of the project" means and embraces the cost of construction; the cost of all
35 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and

1 equipment; financing charges; interest prior to and during construction and for such
2 period after completion of construction as determined by the authority; the cost of
3 engineering, architectural, fiscal agents' expenses, legal expenses, plans and
4 specifications, and other expenses necessary or incidental to determining the feasibility
5 or practicability of the project; administrative expenses and such other expenses as may
6 be necessary or incident to the financing authorized in this Act; working capital; and all
7 other costs necessary to acquire, construct, add to, extend, improve, equip, operate, and
8 maintain the project.

9 (3) "Project" means the acquisition, purchase, other distribution, transfer, sale, exchange,
10 management, and use of natural gas and also shall mean any systems, plants, works,
11 instrumentalities, and properties, real or personal, used or useful in connection with a
12 facility or system for the distribution, transfer, sale, exchange, management, and use of
13 natural gas, as well as all buildings and facilities necessary or convenient for the efficient
14 operation of the City of LaGrange natural gas system.

15 (4) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia, codified
16 at Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended, or any other similar
17 law hereinafter enacted.

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

19 (6) "Self-liquidating" means any project which the revenues and earnings to be derived
20 by the authority therefrom, including but not limited to any contractual payments with the
21 City of LaGrange or private entities within the City of LaGrange, and all properties used,
22 leased, and sold in connection therewith, together with any grants, will be sufficient to
23 pay the costs of operating, maintaining, and repairing the project and to pay the principal
24 and interest on the revenue bonds or other obligations which may be issued for the
25 purpose of paying the costs of the project.

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

27 **SECTION 4.**

28 **Powers.**

29 The authority shall have the power:

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

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

34 (3) To acquire, in its own name by purchase on such terms and conditions and in such
35 manner as it may deem proper, real property or rights or easements therein or franchises

1 necessary or convenient for its corporate purposes, to use the same so long as its
2 corporate existence shall continue, to lease or make contracts with respect to the use of
3 the same, or to dispose of the same in any manner it deems to the best advantage of the
4 authority. No property shall be acquired under the provisions of this Act upon which any
5 lien or encumbrance exists, unless, at the time such property is so acquired, a sufficient
6 sum of money is to be deposited in trust to pay and redeem the fair value of such lien or
7 encumbrance;

8 (4) To appoint, select, and employ officers, agents, and employees, including
9 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
10 their respective compensations;

11 (5) To execute contracts, leases, installment sales contracts, agreements, and instruments
12 necessary or convenient in connection with the acquisition, construction, addition,
13 extension, improvement, equipping, operation, maintenance, or sale of a project; and any
14 and all persons, firms, private corporations, and the City of LaGrange, Georgia, are
15 authorized to enter into contracts, leases, installment sales contracts, agreements, or
16 instruments with the authority upon such terms and for such purposes as they deem
17 advisable and as they are authorized to enter into by law;

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

19 (7) To pay the costs of the project with the proceeds of assets or rights sold by the
20 authority or revenue bonds or other obligations issued by the authority or from any grant
21 or contribution from the United States of America or any agency or instrumentality
22 thereof or from the state or any agency or instrumentality or other political subdivision
23 thereof or from any other source whatsoever;

24 (8) To accept loans or grants of money or materials or property of any kind from the
25 United States of America or any agency or instrumentality thereof upon such terms and
26 conditions as the United States of America or such agency or instrumentality may
27 require;

28 (9) To accept loans or grants of money or materials or property of any kind from the state
29 or any agency or instrumentality or political subdivision thereof upon such terms and
30 conditions as the state or such agency or instrumentality or political subdivision may
31 require;

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

34 (11) To sell or assign its rights under its contracts, lease agreements, or installment sale
35 agreements or its right to receive payments thereunder, either directly or through trust or
36 custodial arrangements whereby interests are created in such contracts, lease agreements,
37 or installment sale agreements or the payments to be received thereunder through the

1 issuance of trust certificates, certificates of participation, custodial receipts, or similar
2 instruments;

3 (12) To exercise any power usually possessed by private corporations performing similar
4 functions, including the power to incur short-term debt and to approve, execute, and
5 deliver appropriate evidence of any such indebtedness; and

6 (13) (A) To do all things necessary or convenient to carry out the powers expressly
7 given in this Act;

8 (B) Notwithstanding any other provision of this Act, the authority shall not have
9 the power or authority to engage in the distribution or sale of gas or the
10 transportation of gas to any political subdivision, authority, agency, or
11 instrumentality of the State of Georgia, other than the authority and the City of
12 LaGrange, or to any other user or provider of natural gas that is not an ultimate
13 consumer thereof, irrespective of whether such consumer is a public or private
14 person or other entity and irrespective of whether the authority acts alone, in
15 conjunction with, on behalf of, or as an agent for another or others in any such
16 transaction.

17 **SECTION 5.**

18 Revenue bonds.

19 The authority, or any authority or body which has or which may in the future succeed to the
20 powers, duties, and liabilities vested in the authority created by this Act, shall have power
21 and is authorized to provide by resolution for the issuance of revenue bonds of the authority
22 for the purpose of paying all or any part of the costs of the project and for the purpose of
23 refunding revenue bonds or other obligations previously issued. The principal of and interest
24 on such revenue bonds shall be payable solely from the special fund provided for such
25 payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or
26 rates per annum payable at such time or times, shall mature at such time or times not
27 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
28 to both principal and interest as may be determined by the authority, and may be redeemable
29 before maturity, at the option of the authority, at such price or prices and under such terms
30 and conditions as may be fixed by the authority in the resolution for the issuance of such
31 revenue bonds.

SECTION 6.

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

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

SECTION 7.

Same; signatures; seal.

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

SECTION 8.

Same; negotiability.

All revenue bonds shall have and are declared to have all the qualities and incidents of negotiable instruments under the laws of 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 immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special or adjourned meeting of the authority by a majority of its members.

SECTION 13.

Credit not pledged.

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

SECTION 14.

Trust indenture as security.

In the discretion of the authority, any issuance of revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the state. Either the resolution providing for the issuance of the revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition and construction of the project, the maintenance, operation, repair, and insuring of the project, 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 Troup 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 within Troup County 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 providing buildings, facilities, and services for the citizens in City of LaGrange, Georgia.

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, and charges for the services, facilities, and commodities furnished and, in anticipation of the collection of the revenues, to issue revenue bonds or other types of obligations as provided in this Act to finance, in whole or in part, the costs of the project and to pledge to the punctual payment of said revenue bonds or other obligations 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, including the basis upon which recreational services and facilities and other public services and facilities shall be furnished. The authority may adopt bylaws.

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 City of LaGrange, Georgia; and the officers, agents,

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

5 **SECTION 26.**

6 Effect on other governments.

7 This Act shall not and does not in any way take from City of LaGrange, Georgia, or any
8 county or municipality the authority to own, operate, and maintain facilities or to issue
9 revenue bonds as provided by the Revenue Bond Law.

10 **SECTION 27.**

11 Liberal construction of Act.

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

14 **SECTION 28.**

15 Effective date.

16 This Act shall become effective on July 1, 2003; provided, however, that this Act shall only
17 become effective if a bill amending Code Section 36-82-61 of the O.C.G.A., relating to
18 definitions regarding Article 3 of Chapter 82 of Title 36, the "Revenue Bond Law," so as to
19 redefine the term "undertaking" and remove referendum requirements regarding certain gas
20 generation and distribution system revenue certificates is passed, becomes law, and becomes
21 effective on or before July 1, 2003; otherwise, this Act shall be void and shall be
22 automatically repealed on July 2, 2003.

23 **SECTION 29.**

24 General repealer.

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