

House Bill 611 (AS PASSED HOUSE AND SENATE)

By: Representatives Channell of the 116th and Hudson of the 124th

A BILL TO BE ENTITLED
AN ACT

1 To create the Eatonton-Putnam Water and Sewer Authority and to provide for the
2 appointment of members of the authority; to confer powers upon the authority; to authorize
3 the issuance of revenue bonds of the authority payable from the revenues, tolls, fees, fines,
4 charges and earnings of the authority, contract payments to the authority and from other
5 moneys pledged therefor and authorize the collection and pledging of the revenues, tolls,
6 fees, fines, charges and earnings of the authority for the payment of such revenue bonds; to
7 authorize the execution of resolutions and trust indentures to secure the payment of the
8 revenue bonds of the authority and to define the rights of the holders of such obligations; to
9 make the revenue bonds of the authority exempt from taxation; to fix and provide the venue
10 and jurisdiction of actions relating to any provisions of this Act; to provide for the validation
11 of bonds; 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 "Eatonton-Putnam Water and Sewer
16 Authority Act."

17 **SECTION 2.**

18 Eatonton-Putnam Water and Sewer Authority.

19 (a) There is hereby created a public body corporate and politic to be known as the
20 "Eatonton-Putnam Water and Sewer Authority," which shall be deemed to be a political
21 subdivision of the state and a public corporation, and by that name, style and title said body
22 may contract and be contracted with, sue and be sued, implead and be impleaded and

1 complain and defend in all courts of law and equity. The authority shall have perpetual
2 existence.

3 (b) The authority shall consist of five members. One member shall be the Chairman of the
4 Board of Commissioners of Putnam County, Georgia or such officer's designee, said
5 designee being a member of the Board of Commissioners of Putnam County; one member
6 shall be the Mayor of the City of Eatonton, Georgia or such officer's designee, said designee
7 being a member of the Council of the City of Eatonton; one member shall be appointed by
8 the Board of Commissioners of Putnam County (the "county member"); one member shall
9 be appointed by the Mayor and Council of Eatonton (the "city member"); and one member
10 shall be appointed by the foregoing four members (the "at-large member"). With respect to
11 the initial appointments of the county member, the city member and the at-large member, the
12 county member shall be appointed for a term of four years or until a successor is appointed,
13 the city member shall be appointed for a term of three years or until a successor is appointed,
14 and the at-large member shall be appointed for a term of two years or until a successor is
15 appointed. Thereafter, all appointments of the county member, the city member and the
16 at-large member shall be made for terms of four years or until successors are appointed.
17 Immediately after such appointments the members of the authority shall enter upon their
18 duties. To be eligible for appointment as a member of the authority a person shall be at least
19 21 years of age and a resident of Putnam County for at least two years prior to the date of his
20 or her appointment. No person shall be eligible for appointment to the authority who has
21 been convicted of a felony. With the exception of the designees of the Chairman of the Board
22 of Commissioners and the Mayor of the City of Eatonton, members of the Board of
23 Commissioners of Putnam County and/or the Council of the City of Eatonton shall not be
24 eligible for appointment. A member of the authority may be selected and appointed to
25 succeed himself or herself for a maximum of one four-year term.

26 (c) The members of the authority may be entitled to compensation for their services. Such
27 members shall be reimbursed for their actual expenses necessarily incurred in the
28 performance of their duties.

29 (d) The Chairman of the Board of Commissioners of Putnam County and the Mayor of the
30 City of Eatonton or their designees shall alternate as chairperson and vice-chairperson on an
31 annual basis. The initial chairperson shall be the Mayor of the City of Eatonton or such
32 official's designee and the initial vice-chairperson shall be the Chairman of the Putnam
33 County Board of Commissioners or such official's designee. The members of the authority
34 shall elect a secretary, who need not be a member of the authority, and may also elect a
35 treasurer, who need not be a member of the authority. The secretary may also serve as
36 treasurer. If the secretary or the treasurer are not members of the authority, such officer shall

1 have no voting rights. Each of such officers shall serve for a period of one year and until their
2 successors are duly elected and qualified.

3 (e) Three members of the authority shall constitute a quorum. Any action may be taken by
4 the authority upon the affirmative vote of a majority of the members. No vacancy on the
5 authority shall affect the requirement that three members of the authority constitute a
6 quorum, with the result that in the absence of three appointed members there shall be no
7 quorum.

8 SECTION 3.

9 Definitions.

10 As used in this Act, the term:

11 (a) "Authority" means the Eatonton-Putnam Water and Sewer Authority created by this Act.

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

21 (c) "Project" means (i) systems, plants, works, instrumentalities, and properties used or
22 useful in connection with the obtaining of a water supply and the conservation, treatment,
23 distribution, disposal and sale of water for public and private uses and used or useful in
24 connection with the collection, transmission, treatment, and disposal of sewage, waste, and
25 storm water, together with all parts of any such system, plant, work, instrumentality, and
26 property and appurtenances thereto, including lands, easements, rights in land, water rights,
27 contract rights, franchises, approaches, dams, reservoirs, recreational facilities adjacent to
28 such reservoirs, generating stations, sewage disposal plants, interceptor sewers, trunk lines
29 and other sewer and water mains, filtration works, pumping stations and equipment and (ii)
30 any "undertaking" permitted by the Revenue Bond Law.

31 (d) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia (codified
32 at O.C.G.A. Title 36, Chapter 82, Article 3), or any other similar law hereinafter enacted.

33 (e) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

34 (f) "Self-liquidating" means any project which the revenues and earnings to be derived by
35 the authority therefrom, including but not limited to any contractual payments with

1 governmental or private entities, and all properties used, leased, and sold in connection
 2 therewith, together with any grants, will be sufficient to pay the costs of operating,
 3 maintaining and repairing the project and to pay the principal and interest on the revenue
 4 bonds or other obligations which may be issued for the purpose of paying the costs of the
 5 project.

6 (g) "State" means the State of Georgia.

7 (h) "System" means all components utilized by the authority for the purpose of providing
 8 services including but not limited to real property, real property improvements, equipment,
 9 materials, structures and facilities.

10 **SECTION 4.**

11 Powers.

12 The authority shall have the power:

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

14 (b) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,
 15 maintain, lease, and dispose of real and personal property of every kind and character for its
 16 corporate purposes;

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

31 (d) To combine its water facilities, storm water, and sewerage facilities into one system and
 32 to operate and maintain its facilities as such;

33 (e) To appoint, select and employ officers, agents and employees, including engineering,
 34 architectural and construction experts, fiscal agents and attorneys, and fix their respective
 35 compensations;

- 1 (f) To execute contracts, leases, agreements and instruments necessary or convenient in
 2 connection with the acquisition, construction, addition, extension, improvement, equipping,
 3 operation or maintenance of a project or the system. Any and all persons, firms and
 4 corporations and the state, and any institution, department, or other agency thereof, and any
 5 county, municipality, school district or other political subdivision or authority of the state are
 6 hereby authorized to enter into contracts, leases, agreements or instruments with the authority
 7 upon such terms and for such purposes as they deem advisable and as they are authorized by
 8 law;
- 9 (g) To acquire, construct, add to, extend, improve, equip, operate and maintain projects;
- 10 (h) To pay the cost of the project with the proceeds of revenue bonds or other obligations
 11 issued by the authority or from any grant or contribution from the United States of America
 12 or any agency or instrumentality thereof or from the state or any agency or instrumentality
 13 or other political subdivision thereof or from any other source whatsoever;
- 14 (i) To accept loans, grants, or loans and grants of money or materials or property of any kind
 15 from the United States of America or any agency or instrumentality thereof, upon such terms
 16 and conditions as the United States of America or such agency or instrumentality may
 17 require;
- 18 (j) To accept loans, grants, or loans and grants of money or materials or property of any kind
 19 from the state or any agency or instrumentality or political subdivision thereof, upon such
 20 terms and conditions as the state or such agency or instrumentality or political subdivision
 21 may require;
- 22 (k) To borrow money for any of its corporate purposes and to issue revenue bonds, and to
 23 provide for the payment of the same and for the rights of the holders thereof;
- 24 (l) To exercise any power usually possessed by private corporations performing similar
 25 functions, including the power to incur short-term debt and to approve, execute, and deliver
 26 appropriate evidence of any such indebtedness and the power to execute interest rate swaps
 27 and similar agreements, provided that such power is not in conflict with the Constitution and
 28 laws of the state; and
- 29 (m) To do all things necessary or convenient to carry out the powers expressly given in this
 30 Act.

31 **SECTION 5.**

32 Revenue Bonds.

33 The authority, or any authority or body which has or which may in the future succeed to the
 34 powers, duties and liabilities vested in the authority created by this Act, shall have power and
 35 is hereby authorized to provide by resolution for the issuance of revenue bonds of the

1 authority for the purpose of paying all or any part of the cost of the project and for the
2 purpose of refunding revenue bonds or other obligations previously issued. The principal of
3 and interest on such revenue bonds shall be payable solely from the special fund hereby
4 provided for such payment. The revenue bonds of each issue shall be dated, shall bear
5 interest at such rate or rates per annum, shall be payable at such time or times, shall mature
6 at such time or times not exceeding 40 years from their date or dates, shall be payable in such
7 medium of payment as to both principal and interest as may be determined by the authority
8 and may be redeemable before maturity, at the option of the authority, at such price or prices
9 and under such terms and conditions as may be fixed by the authority in the resolution for
10 the issuance of such revenue bonds.

11 **SECTION 6.**

12 Same; Form; Denomination; Registration; Place of Payment.

13 The authority shall determine the form of the revenue bonds and shall fix the denomination
14 or denominations of the revenue bonds. The revenue bonds may be issued in registered form,
15 and provision may be made for registration and exchangeability privileges. The authority
16 shall fix the place or places of payment of principal and interest thereon, which may be at any
17 bank or trust company with a minimum capital or surplus of \$10 million inside or outside the
18 state.

19 **SECTION 7.**

20 Same; Signatures; Seal.

21 All such revenue bonds may bear the manual or facsimile signature of the chairperson or
22 vice-chairperson of the authority and the attesting manual or facsimile signature of the
23 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of
24 the authority shall be impressed or imprinted thereon. Any revenue bonds may bear the
25 manual or facsimile signature of such persons as at the actual time of the execution of such
26 revenue bonds shall be duly authorized or hold the proper office, although at the date of
27 issuance of such revenue bonds such person may not have been so authorized or shall not
28 have held such office. In case any officer whose signature shall appear on any revenue bond
29 shall cease to be such officer before the delivery of such revenue bond, such signature shall
30 nevertheless be valid and sufficient for all purposes, the same as if that person had remained
31 in office until such 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, 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 or purposes 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, 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 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 Putnam County or Eatonton nor
 8 a pledge of the faith and credit of Putnam County or Eatonton, but such revenue bonds shall
 9 be payable solely from the fund provided for in this Act. The issuance of such revenue bonds
 10 shall not directly, indirectly or contingently obligate Putnam County or Eatonton to levy or
 11 to pledge any form of taxation whatsoever for payment of such revenue bonds or to make any
 12 appropriation for their payment, and all such revenue bonds shall contain recitals on their
 13 face covering substantially the foregoing provisions of this section. Notwithstanding the
 14 foregoing provisions, this Act shall not affect the ability of the authority, Putnam County,
 15 and Eatonton or the authority and either of such political subdivisions to enter into an
 16 intergovernmental contract pursuant to which Putnam County or Eatonton, or Putnam County
 17 and Eatonton agrees to pay amounts sufficient to pay operating charges and other costs of
 18 the authority or any project including, without limitation, the principal of and interest on
 19 revenue bonds in consideration for services or facilities of the authority.

20 **SECTION 14.**

21 Trust Indenture as Security.

22 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
 23 indenture by and between the authority and a corporate trustee, which may be any trust
 24 company or bank with a minimum capital or surplus of \$10 million having the powers of a
 25 trust company inside or outside the state. Either the resolution providing for the issuance of
 26 the revenue bonds or such trust indenture may contain such provisions for protecting and
 27 enforcing the rights and remedies of the bondholders as may be reasonable and proper and
 28 not in violation of law, including covenants setting forth the duties of the authority in relation
 29 to the acquisition and construction of the project, the maintenance, operation, repair and
 30 insuring of the project, and the custody, safeguarding and application of all moneys.

SECTION 15.**To Whom Proceeds of Bonds Shall be Paid.**

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

SECTION 16.**Sinking Fund.**

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10 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
11 fines, charges and earnings derived from any particular project or projects, regardless of
12 whether or not such revenues, fees, tolls, fines, charges and earnings were produced by a
13 particular project for which revenue bonds have been issued, unless otherwise pledged and
14 allocated, may be pledged and allocated by the authority to the payment of the principal and
15 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
16 revenue bonds or in the trust indenture may provide, and such funds so pledged from
17 whatever source received shall be set aside at regular intervals as may be provided in the
18 resolution or trust indenture, into a sinking fund, which said sinking fund shall be pledged
19 to and charged with the payment of (1) the interest upon such revenue bonds as such interest
20 shall fall due, (2) the principal or purchase price of such revenue bonds as the same shall fall
21 due, (3) any premium upon such revenue bonds as the same shall fall due, (4) the purchase
22 of such revenue bonds in the open market, and (5) the necessary charges of the paying of the
23 agent and trustee for paying principal and interest. The use and disposition of such sinking
24 fund shall be subject to such regulations as may be provided in the resolution authorizing the
25 issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be
26 provided in such resolution or trust indenture, such sinking fund shall be maintained as a trust
27 account for the benefit of all revenue bondholders without distinction or priority of one over
28 another.

SECTION 17.**Remedies of Bondholders.**

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31 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the
32 extent the rights herein given may be restricted by resolution passed before the issuance of

1 the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,
2 mandamus or other proceedings, protect and enforce any and all rights under the laws of the
3 state, including specifically but without limitation, the Revenue Bond Law, or granted
4 hereunder or under such resolution or trust indenture, and may enforce and compel
5 performance of all duties required by this Act or by such resolution or trust indenture to be
6 performed by the authority or any officer thereof, including the fixing, charging and
7 collecting of revenues, fees, tolls, fines and other charges for the use of the facilities and
8 services furnished.

9 **SECTION 18.**

10 Validation.

11 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
12 the procedure of the Revenue Bond Law. The petition for validation shall also make party
13 defendant to such action the state, and any institution, department or other agency thereof,
14 and any county, municipality, school district or other political subdivision or authority of the
15 state which has contracted with the authority for services or facilities relating to the project
16 for which revenue bonds are to be issued and sought to be validated, and such defendant shall
17 be required to show cause, if any exists, why such contract or contracts shall not be
18 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.
19 The revenue bonds when validated, and the judgment of validation shall be final and
20 conclusive with respect to such revenue bonds and the security for the payment thereof and
21 interest thereon and against the authority and all other defendants.

22 **SECTION 19.**

23 Venue and Jurisdiction.

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

SECTION 20.

Interest of Bondholders Protected.

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

SECTION 21.

Moneys Received Considered Trust Funds.

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

SECTION 22.

Purpose of the Authority.

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19 (a) Without limiting the generality of any provision of this Act, the general purpose of the
20 authority is declared to be that of acquiring an adequate source or sources of water supply,
21 treatment of such water, and thereafter the maintenance and distribution of the same to the
22 various municipalities and citizens in Putnam County and environs, including other counties,
23 municipalities and authorities located therein, and further for the general purpose of
24 gathering and treatment of sewerage, storm water and waste, both individual and industrial.
25 (b) The authority shall also have the authority, where it deems it feasible, to sell its products
26 and services to customers, governmental agencies, or governmental instrumentalities of
27 adjoining states, providing the laws of the adjoining states do not prohibit or tax said activity.

SECTION 27.

Effect on other Governments.

This Act shall not and does not in any way take from Putnam County, 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 hereof.

SECTION 29.

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

SECTION 30.

Repealer.

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