

House Bill 876 (AS PASSED HOUSE AND SENATE)

By: Representatives Davis of the 109<sup>th</sup>, Yates of the 73<sup>rd</sup>, Barnes of the 78<sup>th</sup>, Watson of the 91<sup>st</sup>, and Mosby of the 90<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Henry County Governmental Services Authority; to provide for a short title;  
2 to provide for the appointment of members of the authority; to confer powers upon the  
3 authority including the power to acquire, lease, construct, install, maintain, and equip certain  
4 road, street, and bridge projects within the limits of Henry County, Georgia; to authorize the  
5 issuance of revenue bonds of the authority from the revenues, tolls, fees, charges and  
6 earnings, of the authority, contract payments to the authority and from other moneys pledged  
7 therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges,  
8 earnings, and contract payments of the authority for the payment of such revenue bonds; to  
9 authorize the execution of resolutions and trust indentures to secure the payment of the  
10 revenue bonds of the authority and to define the rights of the holders of such obligations; to  
11 make the revenue bonds of the authority exempt from taxation; to make the property of the  
12 authority exempt from taxation; to fix and provide the venue and jurisdiction of actions  
13 relating to the provisions of this Act; to provide for the validation of bonds; to provide for  
14 other related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Short title.

18 This Act shall be known and may be cited as the "Henry County Governmental Services  
19 Authority Act."

20 **SECTION 2.**

21 Henry County Governmental Services Authority.

22 (a) There is hereby created a public body corporate and politic to be known as the "Henry  
23 County Governmental Services Authority," which shall be deemed to be a political

1 subdivision of the State of Georgia and a public corporation, and by that name, style, and title  
 2 said body may contract and be contracted with, sue and be sued, implead and be impleaded,  
 3 and complain and defend in all courts of law and equity. The authority shall not be a state  
 4 institution nor a department or agency of the State of Georgia and is exempt from the  
 5 provisions of Article 2 of Chapter 17 of Title 50 of the O.C.G.A., the "Georgia State  
 6 Financing and Investment Commission Act." The authority is granted the same exclusions  
 7 from taxes as are now granted to cities and counties for the operation of facilities similar to  
 8 facilities to be operated by the authority as provided under the provisions of this Act. The  
 9 authority shall make its own rules and regulations and shall have perpetual existence.

10 (b) The authority shall consist of six members who shall be the then sitting members of the  
 11 Board of Commissioners of Henry County.

12 (c) The members of the authority will not be compensated for their services.

13 (d) The members of the authority shall elect one of their number as chairperson and another  
 14 as vice chairperson. The members of the authority shall also elect a secretary and an assistant  
 15 secretary, who need not be a member of the authority, and may also elect a treasurer, who  
 16 need not be a member of the authority. The secretary may also serve as treasurer. If the  
 17 secretary or treasurer are not members of the authority, such officers shall have no voting  
 18 rights. Each of such officers shall serve for a period of one year and until their successors are  
 19 duly elected and qualified.

20 (e) Four members of the authority shall constitute a quorum. No vacancy on the authority  
 21 shall impair the right of the quorum to exercise all of the rights and perform all of the duties  
 22 of the authority.

### 23 SECTION 3.

#### 24 Definitions.

25 As used in this Act, the term:

26 (1) "Authority" means the Henry County Governmental Services Authority created by  
 27 this Act.

28 (2) "Costs of the project" means and embraces the cost of construction; the cost of all  
 29 lands, properties, rights, easements, franchises, permits, approvals, licenses, certificates,  
 30 and water rights acquired; the cost of all machinery, fuel, supplies, and equipment;  
 31 financing charges; interest prior to and during construction and for 18 months after  
 32 completion of construction; working capital, insurance premiums, the fees and expenses  
 33 of engineers, architects, planners, contractors, marketing agents, fiscal agents, trustees,  
 34 attorneys, financial advisors, consultants, underwriters, investment bankers, plans and  
 35 specifications, and other expenses necessary or incident to determining the feasibility or

1 practicability of the project; administrative expenses and such other expenses as may be  
 2 necessary or incident to the financing authorized in this Act; and all other costs necessary  
 3 to acquire, construct, add to, extend, improve, equip, operate, and maintain the project.  
 4 There may also be included as part of such cost of project the creation of a debt service  
 5 reserve, a renewal and replacement reserve and such other reserves as may be reasonable  
 6 required by the authority with respect to the financing and operation of its projects and  
 7 as may be authorized by any bond resolution or trust agreement.

8 (3) "Project" means only roads, streets, and bridges necessary or convenient for efficient  
 9 surface transportation in Henry County, Georgia, and any other political subdivision of  
 10 the State of Georgia located within Henry County, Georgia.

11 (4) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia, codified  
 12 at O.C.G.A. Section 36-82-62 et seq., as amended, or any other similar law hereinafter  
 13 enacted.

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

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

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

#### 23 **SECTION 4.**

#### 24 Powers.

25 The authority shall have the power:

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

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

30 (3) To acquire in its own name by purchase on such terms and conditions and in such  
 31 manner as it may deem proper or by condemnation in accordance with the provisions of  
 32 any and all existing laws applicable to the condemnation of property for public use, real  
 33 property, or rights or easements therein, or franchises necessary or convenient for its  
 34 corporate purposes; to use the same so long as its corporate existence shall continue; to  
 35 lease or make contracts with respect to the use of the same; or to dispose of the same in

1 any manner it deems to the best advantage of the authority. The authority shall be under  
2 no obligation to accept and pay for any property condemned under this Act except from  
3 the funds provided under the authority of this Act. In any proceedings to condemn, such  
4 orders may be made by the court having jurisdiction of the suit, action, or proceedings  
5 as may be just to the authority and to the owners of the property to be condemned. No  
6 property shall be acquired under the provisions of this Act upon which any lien or  
7 encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of  
8 money is to be deposited in trust to pay and redeem the fair value of such lien or  
9 encumbrance;

10 (4) To appoint, select, and employ officers, agents, and employees of every kind,  
11 including, but not limited to, engineering, architectural, interior design and construction  
12 experts, fiscal agents, underwriters, investment bankers, attorneys, developers, and  
13 consultants, and to fix their respective compensations; provided, however, that the  
14 authority shall not employ the services of or authorize compensation for any attorney or  
15 law firm who or which is also employed or retained by Henry County or any other  
16 political subdivision located in Henry County;

17 (5) To execute contracts, leases, agreements, and instruments necessary or convenient  
18 in connection with the acquisition, construction, development, addition, extension,  
19 improvement, equipping, operation, financing, or maintenance of a project; and any and  
20 all persons, firms, corporations, the state, agencies of the state, Henry County, Georgia,  
21 and any other political subdivision or municipality of the state located in Henry County,  
22 Georgia, are hereby authorized to enter into contracts, leases, agreements, or instruments  
23 with the authority upon such terms and for such purposes as they deem advisable and as  
24 they are authorized to enter into by law;

25 (6) To acquire, construct, add to, extend, improve, equip, operate, maintain, lease, sell,  
26 grant, exchange, and dispose of projects;

27 (7) To pay the costs of the project with the proceeds of revenue bonds or other  
28 obligations issued by the authority or from any grant or contribution from the United  
29 States or any agency or instrumentality thereof or from this state or any agency or  
30 instrumentality or other political subdivision thereof or from any other source  
31 whatsoever;

32 (8) To accept loans or grants of money or materials or property of any kind from the  
33 United States or any agency or instrumentality thereof, upon such terms and conditions  
34 as the United States or such agency or instrumentality may require;

35 (9) To accept loans or grants of money or materials or property of any kind from this  
36 state or any agency or instrumentality or political subdivision thereof, upon such terms

1 and conditions as this state or such agency or instrumentality or political subdivision may  
2 require;

3 (10) To borrow money for any of its corporate purposes, to issue revenue bonds and  
4 bond anticipation notes, and to provide for the payment of the same and for the rights of  
5 the holders thereof;

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

9 (12) To exercise any power usually possessed by private corporations performing similar  
10 functions which is not in conflict with the laws of the state or the Constitution; and

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

13 **SECTION 5.**

14 Revenue bonds.

15 (a) The authority, or any authority or body which has or which may in the future succeed  
16 to the powers, duties, and liabilities vested in the authority created by this Act, shall have  
17 power and is authorized to provide by resolution for the issuance of revenue bonds and  
18 bond anticipation notes of the authority for the purpose of paying all or any part of the costs  
19 of the project. The principal of and interest on such revenue bonds shall be payable solely  
20 from the special fund hereby provided for such payment. The revenue bonds of each issue  
21 shall be dated, shall bear interest at such rate or rates per annum payable at such time or  
22 times, shall be payable in such medium of payment as to both principal and interest as may  
23 be determined by the authority, and may be redeemable before maturity, at the option of  
24 the authority, at such price or prices and under such terms and conditions as may be fixed  
25 by the authority in the resolution for the issuance of such revenue bonds. All revenue bonds  
26 issued under this Act are declared to be issued for an essential public and governmental  
27 purpose and said bonds and the income thereof shall be exempt from all taxation with the  
28 state.

29 (b) Where a project is the subject of a contract with a local government and the county  
30 funds all or part of its obligations under the contract through a special purpose local option  
31 sales tax, any revenue bonds issued for the purpose of funding such project shall mature  
32 no later than the date on which the special purpose local options sales tax will terminate.  
33 In any other case the term of revenue bonds issued by the authority shall not exceed one  
34 year.

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**SECTION 6.**

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

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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.

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**SECTION 7.**

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Same; signatures; seal.

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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 person 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.

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**SECTION 8.**

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Same; negotiability; exemption from taxation.

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



**SECTION 13.**

Same; investment of bond proceeds and other moneys.

The authority shall invest the proceeds of any its bonds, notes, or other obligations and any other moneys of the authority in the following investments and no others:

(1) Bonds or obligations of the state or other counties, municipal corporations, and political subdivisions of the state;

(2) Bonds or other obligations of the United States or of subsidiary corporations of the United States government which are fully or partially guaranteed by such government;

(3) Obligations of agencies of the United States government issued by the Federal Land Bank, the Federal Home Loan Bank, the Federal Intermediate Credit Bank, and the Central Bank for Cooperatives;

(4) Bonds or other obligations issued by any public housing agency or municipal corporation in the United States, which such bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States government, or project notes issued by any public housing agency, urban renewal agency, or municipal corporation in the United States which are fully secured as to payment of both principal and interest by a requisition, loan, or payment agreement with the United States government;

(5) Certificates of deposit of national or state banks located within the state which have deposits insured by the Federal Deposit Insurance Corporation and certificates of deposit of federal savings and loan associations and state building and loan or savings and loan associations located within the state which have deposits insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation or the Georgia Credit Union Deposit Insurance Corporation, including the certificates of deposit of any bank, savings and loan association, or building and loan association acting as depository, custodian, or paying agent for any such bond proceeds, provided the portion of the certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, or the Georgia Credit Union Deposit Insurance Corporation, if any, must be secured by deposit, with the Federal Reserve Bank of Atlanta, Georgia, or with any national or state bank or federal savings and loan association or state building and loan or savings and loan association located within the state, of one or more of the following securities in an aggregate principal amount equal at least to the amount of such excess: direct and general obligations of the state or of any county or municipal corporation in the state, obligations of the United States or subsidiary corporations described in

1 paragraph (3) of this section, obligations of the agencies of the United States government  
 2 described in paragraph (4) of this section, or bonds, obligations, or project notes of public  
 3 housing agencies, urban renewal agencies, or municipalities described in paragraph (5)  
 4 of this section;

5 (6) Repurchase agreements with banks, savings and loan associations, and trust  
 6 companies which are fully secured by obligations of the type specified in paragraph (1),  
 7 (2), (3), or (4) of this section and which are rated "A2" or higher by Moody's Investors  
 8 Service, Inc.; and

9 (7) Securities of or other interests in any no-load, open-end management type investment  
 10 company or investment trust registered under the Investment Company Act of 1940, as  
 11 from time to time amended, or any common trust fund maintained by any bank or trust  
 12 company which holds such proceeds as paying agent or by an affiliate thereof so long as:

13 (A) The portfolio of such investment company or investment trust or common trust  
 14 fund is limited to the obligations described in paragraph (3) of this section and  
 15 repurchase agreements fully collateralized by any such obligations;

16 (B) Such investment company or investment trust or common trust fund takes delivery  
 17 of such collateral either directly or through an authorized custodian;

18 (C) Such investment company or investment trust or common trust fund is managed  
 19 so as to maintain its shares at a constant net asset value; and

20 (D) Securities of or other interests in such investment company or investment trust or  
 21 common trust fund are purchased and redeemed only through the use of national or  
 22 state banks having corporate trust powers and located within the state.

#### 23 **SECTION 14.**

24 Credit not pledged.

25 Revenue bonds of the authority shall not be deemed to constitute a debt of Henry County,  
 26 Georgia, nor a pledge of the faith and credit of said county, or any other political subdivision  
 27 within Henry County, but such revenue bonds shall be payable solely from the fund  
 28 hereinafter provided for. The issuance of such revenue bonds shall not directly, indirectly,  
 29 or contingently obligate said county to levy or to pledge any form of taxation whatsoever for  
 30 payment of such revenue bonds or to make any appropriation for their payment, and all such  
 31 revenue bonds shall contain recitals on their face covering substantially the foregoing  
 32 provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect  
 33 the ability of the authority and said county to enter into an intergovernmental contract  
 34 pursuant to which said county agrees to pay amounts sufficient to pay operating charges and

1 other costs of the authority or any project including, without limitation, the principal of and  
2 interest on revenue bonds in consideration for services or facilities of the authority.

3 **SECTION 15.**

4 Trust indenture as security.

5 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust  
6 indenture by and between the authority and a corporate trustee, which may be any trust  
7 company or bank having the powers of a trust company within or without this state. Either  
8 the resolution providing for the issuance of the revenue bonds or such trust indenture may  
9 contain such provisions for protecting and enforcing the rights and remedies of the  
10 bondholders as may be reasonable and proper and not in violation of law, including  
11 covenants setting forth the duties of the authority in relation to the acquisition and  
12 construction of the project, the maintenance, operation, repair, and insuring of the project,  
13 and the custody, safeguarding, and application of all moneys.

14 **SECTION 16.**

15 To whom proceeds of bonds shall be paid.

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

21 **SECTION 17.**

22 Sinking fund.

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

1 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with  
2 the payment of:

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

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

### 13 **SECTION 18.**

#### 14 Remedies of bondholders.

15 Any holder of revenue bonds or any of the coupons appertaining thereto and the trustee under  
16 the trust indenture, if any, except to the extent the rights given in this Act, may be restricted  
17 by resolution passed before the issuance of the revenue bonds or by the trust indenture, may,  
18 either at law or in equity, by suit, action, mandamus, or other proceedings, protect and  
19 enforce any and all rights under the laws of this state, including specifically but without  
20 limitation, the Revenue Bond Law, or granted under this Act or under such resolution or trust  
21 indenture, and may enforce and compel performance of all duties required by this Act or by  
22 such resolution or trust indenture to be performed by the authority or any officer thereof,  
23 including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges  
24 for the use of the facilities and services furnished.

### 25 **SECTION 19.**

#### 26 Validation.

27 Revenue bonds and the security therefor shall be confirmed and validated in accordance with  
28 the procedure of the Revenue Bond Law. The petition for validation shall also make party  
29 defendant to such action the state and any institution, department, or other agency of this  
30 state, and any county, municipality, school district, or other political subdivision or authority  
31 of this state which has contracted with the authority for services or facilities relating to the  
32 project for which revenue bonds are to be issued and sought to be validated. Such defendant  
33 shall be required to show cause, if any exists, why such contract or contracts shall not be

1 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.  
2 The revenue bonds, when validated, and the judgment of validation shall be final and  
3 conclusive with respect to such revenue bonds and the security for the payment thereof and  
4 interest thereon and against the authority and all other defendants.

5 **SECTION 20.**

6 Venue and jurisdiction.

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

12 **SECTION 21.**

13 Interest of bondholders protected.

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

23 **SECTION 22.**

24 Moneys received considered trust funds.

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

**SECTION 23.**

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 roads, streets, and bridges benefiting the residents of Henry County, Georgia.

**SECTION 24.**

Rates, charges, and revenues; use.

The authority is hereby 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 25.**

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. The authority may adopt bylaws.

**SECTION 26.**

Tort immunity.

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

**SECTION 27.**

Effect on other governments.

This Act shall not and does not in any way take from Henry County, Georgia, or any county or municipality the authority to own, operate, and maintain public facilities or to issue revenue bonds as provided by the Revenue Bond Law.

**SECTION 28.**

Liberal construction of Act.

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

**SECTION 29.**

General repealer.

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