

House Bill 1585 (AS PASSED HOUSE AND SENATE)

By: Representatives Lane of the 167th, Keen of the 179th, and Hill of the 180th

A BILL TO BE ENTITLED
AN ACT

1 To create the Brunswick-Glynn County Joint Water and Sewer Commission; to provide a
2 short title; to define certain terms; to provide for membership, appointment, terms,
3 cooperation, quorums, and officers of the commission; to provide for a director; to provide
4 for purposes; to provide for powers; to expressly prohibit the exercise of eminent domain by
5 the commission; to provide for ordinance proposals; to provide for tax exemption; to provide
6 for construction; to provide for cumulative nature of powers; to provide for a referendum;
7 to provide effective dates; to provide for contingent repeal; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Brunswick-Glynn County Joint Water and
12 Sewer Commission Act."

13 **SECTION 2.**

14 There is hereby created a body corporate and politic, to be known as the Brunswick-Glynn
15 County Joint Water and Sewer Commission, which shall be a political subdivision of the
16 State of Georgia and a public corporation, and by that name, style, and title said body may
17 contract and be contracted with, sue and be sued, implead and be impleaded, complain and
18 defend in all courts of law and equity. The commission shall have perpetual existence, and
19 shall be deemed a governmental body within the meaning of the Georgia Revenue Bond
20 Law, Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated,
21 specifically under subparagraph (2)(C) of Code Section 36-82-61.

22 **SECTION 3.**

23 As used in this Act, the following words and terms shall have the following meanings:

1 (1) 'Commission' shall mean the Brunswick-Glynn County Joint Water and Sewer
2 Commission created by Section 2 of this Act.

3 (2) 'City' shall mean the City of Brunswick.

4 (3) 'County' shall mean Glynn County, Georgia.

5 (4) 'Project' shall mean the acquisition, construction, and equipping of a water system,
6 sewer system, or combined water and sewer system and all property used or useful in
7 connection therewith.

8 (5) 'Revenue bonds' and 'bonds' shall mean revenue bonds, certificates, and other
9 obligations of the commission, as defined and provided for in Article 3 of Chapter 82 of
10 Title 36 of the O.C.G.A., the "Revenue Bond Law," and such type of obligations may be
11 issued by the commission under this Act and as authorized under said article.

12 (6) 'System' means any water system or sewer system or combined water and sewer
13 system of the commission.

14 (7) 'Unified system' shall mean the combined water and sewer systems of the City of
15 Brunswick and Glynn County.

16 SECTION 4.

17 (a) The commission shall consist of five members. The governing authorities of the county
18 and the city shall each appoint two of their members to the commission. The initial terms
19 of one of the members appointed by the city and one of the members appointed by the county
20 shall be one year from the date of appointment, and all succeeding terms shall be for a period
21 of two years. The terms of all other members of the commission shall be two years from the
22 date of appointment except that no member appointed to one of these four positions or their
23 successors in office shall serve beyond their term in office as a member of the respective
24 appointing body. There shall be no limit to the number of terms a person may serve as a
25 member of the commission. A majority of the four original commission members shall
26 select and name a fifth member to serve on the commission within 30 days of its first
27 meeting. The fifth member shall be a resident of the county and shall serve a term of two
28 years from the date of appointment. Successors in office to the original fifth member shall
29 be selected in the same manner by a majority of members of the commission then sitting.
30 The commission may declare that any member missing three consecutive meetings of the
31 commission has vacated his or her office. The commission may for good cause shown excuse
32 any absence of an individual member so that it does not count toward this limit. If the
33 commission declares an office vacated, it may request the county or the city, as appropriate,
34 to name a successor to serve the balance of that former member's term. Within 30 days of
35 receiving such a request, the governing commission of the county or the city shall appoint
36 a successor. In the case of the fifth member, the four members of the commission that are

1 also members of the governing authorities of the county and the city may name a successor
 2 to serve the balance of the member's term. Members of the commission shall be officers of
 3 the commission when performing the functions of those offices and shall not be deemed to
 4 be officers of the city or county.

5 (b) All members shall be reimbursed for their actual expenses necessarily incurred in the
 6 performance of their duties, including mileage reimbursed at the standard business mileage
 7 rate as determined by the Internal Revenue Service and adopted by the commission.

8 (c) A quorum of the members of the commission shall be required to transact any business.
 9 Three members of the commission shall constitute a quorum. A quorum of the commission
 10 must include at least one member who is a member of the governing commission of the city
 11 and at least one member who is a member of the governing commission of the county.
 12 Meetings of the commission shall be conducted in accordance with *Robert's Rules of Order*.

13 (d) The commission shall elect a chairperson from its members to serve a one year term.
 14 There shall be no limit to the number of terms, consecutive or otherwise, that the chairperson
 15 may serve.

16 **SECTION 5.**

17 The commission shall contract with an individual to serve as director to manage the unified
 18 system as its employee. The director shall not be a member of the commission and shall not
 19 be deemed to be an employee of either the county or the city.

20 **SECTION 6.**

21 Without limiting the generality of any provisions of this Act, the general purposes of the
 22 commission are declared to be those of acquiring, constructing, equipping, maintaining, and
 23 operating adequate water supply, treatment, and distribution facilities and sewerage
 24 collection, treatment, and distribution facilities; making such facilities and services available
 25 to public and private consumers and users located in the city and the county; and extending
 26 and improving such facilities as necessary.

27 **SECTION 7.**

28 After holding a public hearing regarding and prior to entering into an operational agreement
 29 with the city and county to operate the unified system and subsequently entering into such
 30 an agreement, the commission shall have the following powers and duties:

31 (1) To have a seal and to alter same at its pleasure;

32 (2) To operate a water and sewer system or systems including a unified water and sewer
 33 system utilizing the systems and assets of both the county and the city water and sewer
 34 systems and to provide water and sewer services to all citizens and customers in the

1 county and the city and to citizens and customers in either political subdivision. The
2 commission shall operate its system or systems in conformity with all applicable
3 regulations, licenses, and permits and shall be liable to pay any fines or assessments
4 resulting from failure to conform to same;

5 (3) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of
6 real and personal property of every kind and character for its corporate purposes;

7 (4) To acquire real or personal property in its own name by purchase, lease, exchange,
8 gift, or otherwise on such terms and conditions and in such a manner as it may deem
9 proper, necessary, or convenient for its corporate purposes, and to use the same so long
10 as its corporate existence shall continue, and to lease or make contracts with respect to
11 the use of, or dispose of the same in any manner it deems to the best advantage of the
12 commission, and no property shall be acquired under the provisions of this Act upon
13 which any lien or other encumbrance exists unless at the time such property is so
14 acquired a sufficient sum of money shall be deposited in trust to pay and reduce the face
15 value of such lien or encumbrance.

16 (5) To appoint, select, and employ such officers, agents, and employees as shall be
17 necessary in the judgment of the commission to accomplish the purposes of the
18 commission, including accountants, auditors, attorneys, consulting engineers, and other
19 professionals; to fix their respective compensation; and to provide for pension and
20 retirement plans for these officers, agents, and employees. After the commission enters
21 into an agreement to operate the unified system, existing water and sewer employees of
22 the county and the city and former employees of the county who are employees of the
23 company operating the county's water and sewer system shall be offered employment
24 with the commission. The position offered to such persons and the terms of
25 compensation are entirely within the discretion of the commission;

26 (6) To formulate and adopt an annual operating budget of all its revenues and expenses.
27 On or before May 1 of each year the commission shall submit its proposed budget to the
28 county and the city for their comments before its adoption by the commission;

29 (7) To make contracts and leases and to execute all instruments necessary or convenient,
30 including contracts for construction of projects and leases of projects or contracts with
31 respect to the use of projects which it causes to be constructed, erected, or acquired. Any
32 and all persons, firms, and corporations and any and all political subdivisions,
33 departments, institutions, or agencies of the state are authorized to enter into contracts,
34 leases, or agreements with the commission upon such terms and for such purposes as they
35 deem advisable;

36 (8) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,
37 equip, operate, and manage projects, as defined in this Act and to pay the cost of the

1 project in whole or in part from the proceeds of revenue bonds of the commission or from
2 such proceeds and any grant or contribution from the United States of America or any
3 agency or instrumentality thereof or from the State of Georgia or any political
4 subdivision, agency, or instrumentality thereof;

5 (9) To borrow money for any of its corporate purposes and to issue revenue bonds
6 payable solely from funds pledged for that purpose and to provide for the payment of the
7 same and for the rights of the holders thereof;

8 (10) To exercise any power usually possessed by private corporations performing similar
9 functions, including the power to make short-term loans and approve, execute, and
10 deliver appropriate evidence of such indebtedness, provided no such power is in conflict
11 with the Constitution or general laws of this state;

12 (11) To enter into an operational agreement with the county and the city detailing the
13 power of the commission to operate the unified system and the rights of the county, the
14 city, and the commission during the period of such operation. The term of such agreement
15 shall not exceed 50 years;

16 (12) To be liable for payment of all charges and expenses of operating the unified system
17 and to receive all income from the operation of the unified system, except that the county
18 and the city shall continue to receive income necessary to retire any existing indebtedness
19 of their systems;

20 (13) To prescribe, fix, and collect rates, fees, tolls, or charges and to revise from time to
21 time and collect such rates, fees, tolls, or charges, provided that such rates, fees, tolls, or
22 charges shall be calculated to cover only the cost of providing services; to provide capital
23 to expand facilities; to maintain, replace, or expand existing facilities; to provide a
24 reasonable reserve for operations; to fund bond sinking funds; or to fund sinking funds
25 for other debt of the county or the city incurred to provide capital portions of their water
26 or sewer system. The commission shall not operate the unified system at a profit;

27 (14) To accept grants of money, materials, or property of any kind from the United States
28 of America or any agency or instrumentality thereof upon terms and conditions as the
29 United States of America or such agency or instrumentality may impose;

30 (15) To accept grants of money, materials, or property of any kind from the State of
31 Georgia or any agency or instrumentality or political subdivision thereof upon terms and
32 conditions as the State of Georgia or such agency or instrumentality or political
33 subdivision may impose;

34 (16) To accept grants of money, materials, or property of any kind from the city, the
35 county, or any agency or instrumentality thereof upon terms and conditions as the city,
36 the county, or such agency or instrumentality may impose;

- 1 (17) To accept grants of money, materials, or property of any kind from any other
2 source, private or public, provided that such grant or gift is not encumbered with any
3 terms or conditions;
- 4 (18) To insure its interest and the interest of the county and the city or any other entity
5 with which it contracts in all assets leased or utilized by it; and
- 6 (19) To do all things necessary or convenient to carry out the powers and duties
7 expressly given in this Act.

8 **SECTION 8.**

9 The commission shall not have or exercise any power of eminent domain.

10 **SECTION 9.**

11 The commission shall be charged with formulating a proposal for the standardization of
12 county and city ordinances relating to water and sewer services. Such ordinances shall
13 become effective only upon adoption by the governing authorities of the county and the city.

14 **SECTION 10.**

15 The commission, or any commission, authority, or other entity or body which has or which
16 may in the future succeed to the powers, duties, and liabilities vested in the commission
17 created in this Act, shall have power and is authorized at one time, or from time to time, to
18 borrow money for the purpose of paying all or any part of the cost, as defined in this Act, of
19 any one or more projects and to provide by resolution for issuance of revenue bonds for that
20 purpose. The bonds of each issue shall be dated, shall mature at such time or times not
21 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
22 to both principal and interest as may be determined by the commission, and may be made
23 redeemable before maturity, at the option of the commission, at such price or prices and
24 under such terms and conditions as may be fixed by the commission in the resolution
25 providing for the issuance of the bonds. The interest rate or rates to be borne by any bonds
26 and the time of payment of such interest shall be fixed, and with respect to any interest rate
27 which floats in response to a variable, the method of calculation shall be fixed by the
28 commission in the resolution providing for the issuance of all bonds.

SECTION 11.

1
2 The commission is authorized to provide by resolution for the issuance of refunding bonds
3 of the commission for the purpose of refunding any revenue bonds issued under the
4 provisions of this Act and then outstanding, together with accrued interest thereon, and to
5 refund any revenue bonds issued by the city, the county, or the commission with respect to
6 any facilities to be acquired by the commission from the city, county, or other political
7 subdivision or authority.

SECTION 12.

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

SECTION 13.

14
15 Bonds of the commission shall be confirmed and validated in accordance with the procedure
16 provided for in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond
17 Law," as now or hereafter amended.

SECTION 14.

18
19 The properties of the commission, both real and personal, are declared to be public properties
20 used for the benefit and welfare of the people of the city and county and not for purposes of
21 private or corporate benefit and income. Such properties and the commission shall be
22 exempt from all taxes of any city, county, the state, or any political subdivision thereof.

SECTION 15.

23
24 This Act, being for the welfare of various political subdivisions of the state and its
25 inhabitants, shall be liberally construed to effect the purposes thereof.

SECTION 16.

26
27 This Act does not in any way take from the county or the city the authority to own, operate,
28 and maintain water, sanitary sewerage, and water pollution control facilities or to issue
29 revenue bonds as provided by Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond
30 Law"; but the powers granted by this Act to the commission shall be in addition to and
31 cumulative of all other powers now or hereafter given to any municipal corporation or
32 political subdivision of this state.

SECTION 17.

1
2 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
3 superintendents of the City of Brunswick and Glynn County shall call and conduct elections
4 as provided in this section for the purpose of submitting this Act to the electors of the City
5 of Brunswick and to the electors of all that portion of Glynn County outside of the City of
6 Brunswick for approval or rejection. The election superintendents shall conduct such
7 elections on the date of the state-wide general primary in 2006 and shall issue the call and
8 conduct those elections as provided by general law. The election superintendent of Glynn
9 County shall cause the date and purpose of the election to be published once a week for two
10 weeks immediately preceding the date thereof in the official organ of Glynn County. The
11 ballot shall have written or printed thereon the words:

12 "() YES Shall the Act be approved which creates the Brunswick-Glynn County Joint
13 () NO Water and Sewer Commission?"

14 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
15 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
16 such question by the voters of the City of Brunswick and more than one-half of the votes cast
17 on such question by the voters of all that portion of Glynn County outside of the City of
18 Brunswick are for approval of the Act, then Sections 1 through 15 of this Act shall become
19 of full force and effect immediately. If the Act is not so approved by the voters of the City
20 of Brunswick and the voters of all that portion of Glynn County outside the City of
21 Brunswick or if the election is not conducted as provided in this section, Sections 1 through
22 15 of this Act shall not become effective and this Act shall be automatically repealed on the
23 first day of January immediately following that election date. The expense of such election
24 shall be borne by the City of Brunswick and Glynn County. It shall be the election
25 superintendents' duties to certify the result thereof to the Secretary of State.

SECTION 18.

26
27 Except as otherwise provided in Section 17 of this Act, this Act shall be come effective upon
28 its approval by the Governor or upon its becoming law without such approval.

SECTION 19.

29
30 If this Act becomes effective under Section 16 of this Act, this Act shall stand repealed one
31 year after the date on which this Act becomes so effective unless an operational agreement
32 between the City of Brunswick and Glynn County has been entered into under Section 7 of
33 this Act prior to such latter date.

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SECTION 20.

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