

House Bill 1176 (AS PASSED HOUSE AND SENATE)

By: Representative Ralston of the 7<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Fannin County Water Authority; to provide a short title; to define certain terms;  
2 to provide for membership, appointment, terms, cooperation, quorums, and officers of the  
3 authority; to provide for a director; to provide for purposes; to provide for powers; to limit  
4 the exercise of eminent domain by the authority; to provide for ordinance proposals; to  
5 provide for tax exemption; to provide for construction; to provide for cumulative nature of  
6 powers; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Fannin County Water Authority Act."

10 **SECTION 2.**

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

19 **SECTION 3.**

20 As used in this Act, the term:

- 21 (1) "Authority" means the Fannin County Water Authority created by Section 2 of this  
22 Act.  
23 (2) "City" means a municipal corporation located within Fannin County, Georgia.  
24 (3) "County" means the unincorporated areas of Fannin County, Georgia.

25 (4) "Project" means the acquisition, construction, and equipping of a water system, sewer  
 26 system, or combined water and sewer system and all property used or useful in  
 27 connection therewith.

28 (5) "Revenue bonds" and "bonds" mean revenue bonds, certificates, and other obligations  
 29 of the authority, as defined and provided for in Article 3 of Chapter 82 of Title 36 of the  
 30 Official Code of Georgia Annotated, the "Revenue Bond Law," and such type of  
 31 obligations may be issued by the authority under this Act and as authorized under said  
 32 article.

33 (6) "System" means any water system or sewer system or combined water and sewer  
 34 system of the authority.

35 (7) "Unified system" means the combined systems of any entity or city that might  
 36 hereinafter elect to join with the authority.

37 **SECTION 4.**

38 (a) The authority shall consist of seven voting members. The governing authority of the  
 39 county shall appoint the members of the authority in the following manner:

40 (1) Three members shall be appointed by the chairperson of the Fannin County Board  
 41 of Commissioners as follows:

42 (A) One member shall serve for a three-year term and serve as the initial chairperson  
 43 of the authority. Thereafter, the chairperson of the authority shall be elected by a  
 44 majority vote of the members of the authority;

45 (B) One member shall serve a two-year term; and

46 (C) One member shall serve a one-year term;

47 (2) The Post One Commissioner shall appoint two members to the authority, one  
 48 member to a two-year term and one member to a three-year term; and

49 (3) The Post Two Commissioner shall appoint two members to the authority, one  
 50 member to a two-year term and one member to a three-year term.

51 As the term of each member of the authority expires, the appointment to the authority shall  
 52 rest with the respective member of the board of commissioners. All appointments shall be  
 53 appointed at a regular scheduled meeting of the board of commissioners. All succeeding  
 54 terms shall be for a period of three years. The executive director of the Fannin County  
 55 Development Authority shall serve as a nonvoting member of the authority. All members  
 56 shall be residents of Fannin County, either in the unincorporated or incorporated areas of  
 57 the county. No person initially appointed or his or her successors in office shall serve more  
 58 than two consecutive terms. Any member of the board of commissioners may appoint  
 59 himself or herself to the authority.

- 60 (b) The authority may declare that any member missing three consecutive meetings of the  
 61 authority has vacated his or her office. The authority may for good cause shown excuse  
 62 any absence of an individual member so that it does not count toward this limit. If the  
 63 authority declares an office vacated, it may request the appropriate member of the Fannin  
 64 County Board of Commissioners to name a successor to serve the balance of that former  
 65 member's term. Within 30 days of receiving such a request, a successor shall be appointed.  
 66 Members of the authority shall be officers of the authority when performing the functions  
 67 of those offices and shall not be deemed to be officers of the county or any other entity.
- 68 (c) All members shall be reimbursed for their actual expenses necessarily incurred in the  
 69 performance of their duties, including mileage reimbursed at the standard business mileage  
 70 rate as determined by the Internal Revenue Service and adopted by the authority for official  
 71 travel outside of the county.
- 72 (d) A quorum of the members of the authority shall be required to transact any business.  
 73 Four members of the authority shall constitute a quorum.
- 74 (e) After the first year, the authority shall elect a chairperson from its members to serve  
 75 a one-year term. There shall be no limit to the number of terms, consecutive or otherwise,  
 76 that a member may serve as the chairperson.

77 **SECTION 5.**

78 The authority, in conjunction with the county, shall contract with an individual to serve as  
 79 director to manage the system. The director shall not be a member of the authority. The  
 80 director shall be a county employee, subject to the same hiring and firing criteria of any other  
 81 county employee.

82 **SECTION 6.**

83 Without limiting the generality of any provision of this Act, the general purposes of the  
 84 authority are declared to be those of acquiring, constructing, equipping, maintaining, and  
 85 operating adequate water supply, treatment, and distribution facilities and sewerage  
 86 collection, treatment, and distribution facilities; making such facilities and services available  
 87 to public and private consumers and users located in the county; and extending and  
 88 improving such facilities as necessary.

89 **SECTION 7.**

90 After holding a public hearing regarding and prior to entering into an operational agreement  
 91 with any participating city to operate the system and subsequently entering into such an  
 92 agreement, the authority shall have the following powers and duties:

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

94 (2) To operate a water and sewer system or systems including, but not limited to, a  
95 unified water or sewer system, or both, utilizing the systems and assets of the county and  
96 any city that elects to enter into a service agreement with the authority and to provide  
97 water and sewer services to all citizens and customers in the county and any cities that  
98 are participating and to citizens and customers in the political subdivision. It shall be the  
99 sole option of any city to enter into any such service agreement. The authority shall  
100 operate its system or systems in conformity with all applicable regulations, licenses, and  
101 permits and shall be liable to pay any fines or assessments resulting from failure to  
102 conform to same;

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

105 (4) To acquire real or personal property in its own name by purchase, lease, exchange,  
106 gift, or otherwise on such terms and conditions and in such a manner as it may deem  
107 proper, necessary, or convenient for its corporate purposes, to use the same so long as its  
108 corporate existence shall continue, to lease or make contracts the use of the same, or  
109 dispose of the same in any manner it deems to the best advantage of the authority; and  
110 no property shall be acquired under the provisions of this Act upon which any lien or  
111 other encumbrance exists unless at the time such property is so acquired a sufficient sum  
112 of money shall be deposited in trust to pay and reduce the face value of such lien or  
113 encumbrance;

114 (5) To appoint, select, and employ such officers, agents, and employees as shall be  
115 necessary in the judgment of the authority to accomplish the purposes of the authority,  
116 including accountants, auditors, attorneys, consulting engineers, and other professionals;  
117 to fix their respective compensation; and to provide for pension and retirement plans for  
118 these officers, agents, and employees;

119 (6) To formulate and adopt an annual operating budget of all its revenues and expenses.  
120 On or before August 1 of each year, the authority shall submit its proposed budget to the  
121 county and the participating cities for their comments before its adoption by the authority;

122 (7) To make contracts and leases and to execute all instruments necessary or convenient,  
123 including contracts for construction of projects and leases of projects or contracts for the  
124 use of projects which it causes to be constructed, erected, or acquired. Any and all  
125 persons, firms, and corporations and any and all political subdivisions, departments,  
126 institutions, or agencies of the state are authorized to enter into contracts, leases, or  
127 agreements with the authority upon such terms and for such purposes as they deem  
128 advisable;

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

- 131 project in whole or in part from the proceeds of revenue bonds of the authority or from  
132 such proceeds and any grant or contribution from the United States of America or any  
133 agency or instrumentality thereof or from the State of Georgia or any political  
134 subdivision, agency, or instrumentality thereof;
- 135 (9) To borrow money for any of its corporate purposes and to issue revenue bonds  
136 payable solely from funds pledged for that purpose and to provide for the payment of the  
137 same and for the rights of the holders thereof;
- 138 (10) To exercise any power usually possessed by private corporations performing similar  
139 functions, including the power to make short-term loans and approve, execute, and  
140 deliver appropriate evidence of such indebtedness, provided no such power is in conflict  
141 with the Constitution or general laws of this state;
- 142 (11) To enter into an operational agreement with the county and the participating cities  
143 detailing the power of the authority to operate any unified system and the rights of the  
144 county, any participating city, and the authority during the period of such operation. The  
145 term of such agreement shall not exceed 50 years;
- 146 (12) To be liable for payment of all charges and expenses of operating any system or  
147 unified system and to receive all income from the operation of any system or unified  
148 system;
- 149 (13) To prescribe, fix, and collect rates, fees, tolls, or charges and to revise from time to  
150 time and collect such rates, fees, tolls, or charges, provided that such rates, fees, tolls, or  
151 charges shall be calculated to cover only the cost of providing services; to provide capital  
152 to expand facilities; to maintain, replace, or expand existing facilities; to provide a  
153 reasonable reserve for operations; to fund bond sinking funds; or to fund sinking funds  
154 for other debt of the county or the city incurred to provide capital portions of their water  
155 or sewer system. The authority shall not operate any system at a profit;
- 156 (14) To accept grants of money, materials, or property of any kind from the United States  
157 of America or any agency or instrumentality thereof upon terms and conditions as the  
158 United States of America or such agency or instrumentality may impose;
- 159 (15) To accept grants of money, materials, or property of any kind from the State of  
160 Georgia or any agency or instrumentality or political subdivision thereof upon terms and  
161 conditions as the State of Georgia or such agency or instrumentality or political  
162 subdivision may impose;
- 163 (16) To accept grants of money, materials, or property of any kind from the city, the  
164 county, or any agency or instrumentality thereof upon terms and conditions as the city,  
165 county, or such agency or instrumentality may impose;

166 (17) To accept grants of money, materials, or property of any kind from any other  
167 source, private or public, provided that such grant or gift is not encumbered with any  
168 terms or conditions;

169 (18) To insure its interest and the interest of the county or any other entity with which  
170 it contracts in all assets leased or utilized by it; and

171 (19) To do all things necessary or convenient to carry out the powers and duties  
172 expressly given in this Act.

173 **SECTION 8.**

174 The authority shall have the authority to exercise any power of eminent domain; provided,  
175 however, any one acquisition shall not exceed 20 acres. Nothing in this section shall  
176 authorize the authority to exercise the power of eminent domain to obtain the water lines or  
177 resources owned by a city.

178 **SECTION 9.**

179 The authority shall be charged with formulating a proposal for the standardization of county  
180 ordinances relating to water and sewer services. Such ordinances shall become effective only  
181 upon adoption by the governing authority of the county.

182 **SECTION 10.**

183 The authority, or other entity or body which has or which may in the future succeed to the  
184 powers, duties, and liabilities vested in the authority created in this Act, shall have power and  
185 is authorized at one time, or from time to time, to borrow money for the purpose of paying  
186 all or any part of the cost of any one or more projects and to provide by resolution for  
187 issuance of revenue bonds for that purpose. The bonds of each issue shall be dated, shall  
188 mature at such time or times not exceeding 40 years from their date or dates, shall be payable  
189 in such medium of payment as to both principal and interest as may be determined by the  
190 authority, and may be made redeemable before maturity, at the option of the authority, at  
191 such price or prices and under such terms and conditions as may be fixed by the authority in  
192 the resolution providing for the issuance of the bonds. The interest rate or rates to be borne  
193 by any bonds and the time of payment of such interest shall be fixed, and with respect to any  
194 interest rate which floats in response to a variable, the method of calculation shall be fixed  
195 by the authority in the resolution providing for the issuance of all bonds.

196 **SECTION 11.**

197 The authority is authorized to provide by resolution for the issuance of refunding bonds of  
198 the authority for the purpose of refunding any revenue bonds issued under the provisions of

199 this Act and then outstanding, together with accrued interest thereon, and to refund any  
200 revenue bonds issued by the county, or the authority with respect to any facilities to be  
201 acquired by the authority from the county, or other political subdivision or authority.

202 **SECTION 12.**

203 Any action to protect or enforce any rights under the provisions of this Act or any action  
204 against the authority shall be brought in the Superior Court of Fannin County, Georgia, and  
205 any action pertaining to validation of any bonds issued under the provisions of this Act shall  
206 likewise be brought in such court, which shall have exclusive, original jurisdiction of such  
207 actions.

208 **SECTION 13.**

209 Bonds of the authority shall be confirmed and validated in accordance with the procedure  
210 provided for in Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated,  
211 the "Revenue Bond Law," as now or hereafter amended.

212 **SECTION 14.**

213 The properties of the authority, both real and personal, are declared to be public properties  
214 used for the benefit and welfare of the people of the county and not for purposes of private  
215 or corporate benefit and income. Such properties and the authority shall be exempt from all  
216 taxes of any city, any county, the state, or any political subdivision thereof.

217 **SECTION 15.**

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

220 **SECTION 16.**

221 This Act does not in any way take from the county the authority to own, operate, and  
222 maintain water, sanitary sewerage, and water pollution control facilities or to issue revenue  
223 bonds as provided by Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia  
224 Annotated, the "Revenue Bond Law"; but the powers granted by this Act to the authority  
225 shall be in addition to and cumulative of all other powers now or hereafter given to any  
226 political subdivision of this state.

227 **SECTION 17.**

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

230

**SECTION 18.**

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