

House Bill 1511

By: Representatives Hembree of the 67th, Brooks of the 63rd, Bruce of the 64th, and Bearden of the 68th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act entitled "An Act to create the Douglasville-Douglas County Water and
2 Sewer Authority," approved March 7, 1985 (Ga. L. 1985, p. 3584), as amended, so as to
3 amend the board of directors; to define certain terms; to provide certain powers of such
4 authority; to provide for an immunity from tort action; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 An Act entitled "An Act to create the Douglasville-Douglas County Water and Sewer
9 Authority," approved March 7, 1985 (Ga. L. 1985, p. 3584), as amended, is amended by
10 revising Section 3 as follows:

11 "SECTION 3.

12 Douglasville-Douglas County Water and Sewer Authority.

13 (a) There is hereby created a public body corporation to be known as the
14 Douglasville-Douglas County Water and Sewer Authority and by such name, style, and
15 title, said body may contract and be contracted with, sue and be sued, implead and be
16 impleaded, and complain and defend in all courts of law and equity, except that the
17 authority or the trustee acting under any trust indenture shall in no event be liable for any
18 torts committed by any of its officers, agents or employees.

19 (b) The authority board of directors shall be composed of seven members, five to be
20 appointed by mutual agreement and decision of the mayor of the City of Douglasville and
21 the chairperson of the Douglas County Board of Commissioners. The mayor of the City
22 of Douglasville and the chairperson of the Douglas County Board of Commissioners shall
23 serve as ex officio members with full voting rights as members of the authority. The five
24 appointed members of the authority shall be selected by the following method: the mayor

25 of the City of Douglasville and the chairperson of the Douglas County Board of
26 Commissioners shall each select ten prospective members, two each from each of the five
27 general school districts in Douglas County as constituted on March 7, 1985. By mutual
28 agreement and process of elimination, the mayor and the chairperson shall arrive at a total
29 of five members, one from each of the five school districts, to serve staggered terms as
30 follows: one member for one year, one member for two years, one member for three years,
31 one member for four years, and one member for five years. After completion of the initial
32 terms specified in this section, each term shall be for a period of five years. The mayor and
33 chairperson shall be voting members of the board of directors by virtue of their elected
34 positions without regard to length. Members appointed prior to the effective date of this
35 subsection shall be considered as appointed in accordance with this section. At the end of
36 the term of office of any member so appointed or in the event of death, removal, or
37 resignation of any member prior to the conclusion of his or her term in office, the successor
38 member shall be appointed on a rotating basis by either the mayor and council for the City
39 of Douglasville or the Douglas County Board of Commissioners. Prior to the normal
40 expiration of a member's term or within 45 days following the death, removal, or
41 resignation prior to the completion of such member's term of office, the appointing body
42 shall select a competent, qualified person to serve on the authority board of directors, who
43 may be the individual whose term is expiring, provided the appointee is at least 21 years
44 old, has been a resident of Douglas County for at least one year, is not an elected official,
45 and is not an employee of the City of Douglasville, Douglas County, or the authority. If
46 the appointing body fails to make a selection within the appropriate time period, the senior
47 judge of the Superior Court of Douglas County shall provide his or her own selection
48 within an additional 45 day period. Appointees to the authority shall represent the county
49 at large, shall be appointed without regard to school districts, and shall be selected on the
50 basis of competence and fair representation of the varied interests of the entire county.
51 Normal terms for all appointed members of the authority board of directors shall
52 commence on April 3 following appointment and terminate on April 2 of the year in which
53 the term of office expires. If at the end of any term of office of any member a successor
54 thereto shall not have been elected, then the member whose term of office shall have
55 expired shall continue to hold office and be a full voting member until his or her successor
56 shall be so elected.

57 (c) Immediately after the passage of this Act and the appointment of the members by the
58 governing bodies of the City of Douglasville and Douglas County, the members of the
59 authority shall enter upon their duties, and, as soon as is practicable thereafter, they shall
60 hold an organizational meeting. The members of the authority shall elect one of their
61 number as chairperson and another as vice chairperson. Neither the mayor of the City of

62 Douglasville nor the chairperson of the Douglas County Board of Commissioners shall
 63 serve as chairperson or vice chairperson of the authority. The members shall also elect a
 64 secretary and a treasurer, or a secretary-treasurer, who need not be members of the
 65 authority. An assistant secretary may also be elected at the discretion of the authority.
 66 Four members of the authority shall constitute a quorum. No vacancy on the authority
 67 shall impair the authority of the quorum to exercise the rights and powers of and perform
 68 all of the duties and obligations of the authority. The members of the authority shall
 69 receive the same expense allowance per day as that received by members of the General
 70 Assembly for each meeting of the authority actually attended as compensation for their
 71 services and shall be reimbursed for their actual expenses necessarily incurred in the
 72 performance of their duties. The authority may make rules and regulations and adopt
 73 bylaws for its own government. The authority shall have perpetual existence.

74 (d) Any appointed member of the board of directors of the authority who qualifies as a
 75 candidate for public office shall resign from the board at the time of his or her qualification.
 76 No member of the authority board of directors appointed to fill full or partial terms
 77 following the effective date of this subsection shall serve more than two consecutive terms,
 78 except the individuals elected as mayor of the City of Douglasville and chairperson of the
 79 Douglas County Board of Commissioners.

80 (e) The members of the authority shall not be eligible to participate in any employee
 81 benefit plan, including, but not limited to, any insurance or retirement plan, which is
 82 sponsored in whole or in part by any county, city, or authority and which provides benefits
 83 to such members based upon their membership on the board of directors."

84 **SECTION 2.**

85 Said Act is further amended by revising Section 4 as follows:

86 "SECTION 4.

87 Definitions.

88 As used in this Act, the term:

89 (1) 'Authority' means the Douglasville-Douglas County Water and Sewer Authority
 90 created by Section 3 of this Act.

91 (2) 'Cost of the project' means and embraces the cost of construction; the cost of all
 92 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
 93 equipment, financing charges, interest prior to, during, and for one year after completion
 94 of construction; the cost of engineering, architectural, fiscal and legal expenses, and of
 95 plans, specifications, and other expenses necessary or incident to determining the

96 feasibility or practicability of the project; administrative expense; and such other
97 expenses as may be necessary or incident to the financing authorized in this Act, the cost
98 of placing the project in operation, and the condemnation of property necessary for
99 construction and operation. The cost of any project may also include a fund or funds for
100 the creation of a debt service reserve, a renewal and replacement reserve, and such other
101 reserves as may be reasonably required by the authority with respect to the financing and
102 operating of its projects and as may be authorized by any bond resolution or trust
103 agreement or indenture pursuant to the provisions of which the issuance of any bonds
104 may be authorized. Any obligation or expense incurred for any of the foregoing purposes
105 shall be regarded as part of the cost of the project and may be paid or reimbursed as such
106 out of the proceeds of revenue bonds issued under the provisions of this Act for such
107 project.

108 (3) 'Dog River Drainage Basin' means all that tract or parcel of land lying and being in
109 the unincorporated area of Douglas County, Georgia, the boundaries of which are
110 generally described as follows:

111 BEGINNING at the point of intersection of the centerline of U. S. Highway 78 and the
112 common boundary of Douglas County and Carroll County; proceeding thence in an
113 easterly direction along the centerline of U. S. Highway 78 to its intersection with the
114 centerline of Bright Star Road; proceeding thence in a southerly direction along the
115 centerline of Bright Star Road to its intersection with the centerline of Central Church
116 Road; proceeding thence in a southeasterly direction along the centerline of Central
117 Church Road to its intersection with the centerline of Georgia Highway 5; proceeding
118 thence in a southerly direction along the centerline of Georgia Highway 5 to its
119 intersection with the centerline of Big A Road; proceeding thence in a southerly
120 direction along the centerline of Big A Road to its intersection with the centerline of
121 Georgia Highway 166; proceeding thence in an easterly direction along the centerline
122 of Georgia Highway 166 to its intersection with the centerline of South River Road;
123 proceeding thence in a southerly direction along the centerline of South River Road to
124 its intersection with the northern land lot line of Land Lot 7 of the 3rd District and 5th
125 Section of Douglas County, Georgia; proceeding thence west along said northern
126 boundary of Land Lot 7 to the point which marks the common corner of Land Lots 7,
127 8, 13, and 14 of the 3rd District and 5th Section; proceeding thence south along the
128 common boundary of Land Lots 7 and 14 to the point which marks the common corner
129 of Land Lots 6, 7, 14, and 15 of the 3rd District and 5th Section; proceeding thence
130 south along the common boundary of Land Lots 6 and 15 to its intersection with the
131 centerline of the Chattahoochee River; proceeding thence in a southwesterly direction
132 along the centerline of the Chattahoochee River to its intersection with the western

133 boundary of Land Lot 17 of the 3rd District and 5th Section; proceeding thence north
 134 along the common boundary of Land Lot 17 and 30 to the point which marks the
 135 common corner of Land Lots 17, 18, 29, and 30 of the 3rd District and 5th Section;
 136 proceeding thence north along the common boundary of Land Lots 18 and 29 to its
 137 intersection with the centerline of Five Notch Road; proceeding thence in a
 138 northwesterly direction along the centerline of Five Notch Road to its intersection with
 139 the centerline of Georgia Highway 166; proceeding thence in a westerly direction along
 140 the centerline of Georgia Highway 166 to its intersection with the common boundary
 141 of Douglas County and Carroll County; and proceeding generally in a northerly
 142 direction along said Douglas County/Carroll County line to its intersection with the
 143 centerline of U. S. Highway 78 and the POINT OF BEGINNING.

144 (4) 'Project' means and includes the planning, design, acquisition, construction, and
 145 management of systems, plants, reservoirs, works, instrumentalities, and property and all
 146 appurtenances thereto, including lands, easements, rights in land, water rights, contract
 147 rights, franchises, dams, reservoirs, pumping stations, treatment facilities, generating
 148 stations, detention and retention facilities, water mains, sanitary sewers, storm sewers,
 149 and drainage structures: (A) used or useful in connection with a water supply and
 150 distribution system; (B) used or useful in connection with a sanitary sewerage system; (C)
 151 used or useful in connection with a comprehensive storm-water management system; and
 152 (D) used or useful in connection with a water quality or water conservation program.

153 (5) 'Revenue bonds' and 'bonds' means revenue bonds authorized to be issued pursuant
 154 to this Act. Revenue bonds may be issued by the authority as authorized in this Act
 155 without any other actions or proceedings. Nothing in this Act shall prohibit the authority
 156 from issuing other debt instruments permitted by law.

157 (6) 'Self-liquidating' means a project where, in the sole judgement of the authority, the
 158 revenues and earnings to be derived by the authority therefrom, including, but not limited
 159 to, any contractual payments, and all properties used, leased, and sold in connection
 160 therewith, together with any grants, will be sufficient to pay the cost of operating,
 161 maintaining, repairing, improving, and extending the project and to pay the principal and
 162 interest of the revenue bonds which may be issued for the cost of such project or
 163 projects."

164 **SECTION 3.**

165 Said Act is further amended by revising Section 5 as follows:

166 "SECTION 5.

167 Powers.

168 The authority shall have the power:

- 169 (1) To have a seal and alter the same at its pleasure;
- 170 (2) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of
171 real and personal property of every kind and character for its corporate purposes;
- 172 (3) To acquire in its own name by purchase, on such terms and conditions and in such
173 manner as it may deem proper, or by condemnation in accordance with the provisions of
174 any and all existing laws applicable to the condemnation of property for public use, real
175 property or rights of easements therein or franchises necessary or convenient for its
176 corporate purposes, and to use the same so long as its corporate existence shall continue,
177 and to lease or make contracts with respect to the use of or dispose of the same in any
178 manner it deems to the best advantage of the authority, the authority being under no
179 obligation to accept and pay for any property condemned under this Act except from the
180 funds provided under the authority of this Act, and in any proceedings to condemn, such
181 orders may be made by the court having jurisdiction of the suit, action, or proceedings
182 as may be just to the authority and to the owners of the property to be condemned,
183 provided that no property shall be acquired under the provisions of this Act upon which
184 any lien or other encumbrance exists, unless at the time such property is so acquired a
185 sufficient sum of money shall be deposited in trust to pay and redeem the fair value of
186 such lien or encumbrance;
- 187 (4) To enter into an agreement with the City of Douglasville, with Douglas County, or
188 with any other political subdivision or municipal corporation of the state with respect to:
- 189 (A) Acquiring a source of water supply;
- 190 (B) Providing waste-water service;
- 191 (C) Providing storm-water management services;
- 192 (D) Preparing engineering data, plans, and specifications for a water, waste-water, or
193 storm-water system or a combination of any such systems;
- 194 (E) Extending water mains;
- 195 (F) Apportioning the cost of constructing, extending, and maintaining a water,
196 waste-water, or storm-water system or a combination of any such systems;
- 197 (G) Providing for the testing and inspection of facilities constructed;
- 198 (H) Providing for rates to be charged for water, waste-water, and storm-water services
199 furnished to users and those benefitting from said system;
- 200 (I) Providing for the reading of meters and keeping of pertinent records; and

201 (J) Apportioning or designating the responsibility for any functions normally
202 maintained by a water, waste-water, or storm-water system or a combination of any
203 such systems at the most reasonable cost possible;

204 (5) To appoint, select, and employ officers, agents, and employees, including
205 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
206 their respective compensations;

207 (6) To make contracts and leases and to execute all instruments necessary or convenient,
208 including contracts for construction of projects and leases of projects or contracts, with
209 respect to the use of projects which it causes to be erected or acquired, and any and all
210 persons, firms, and corporations and any and all political subdivisions, departments,
211 institutions, or agencies of the state and all special districts and all municipal corporations
212 located in Douglas County shall be authorized to enter into contracts, leases, or
213 agreements with the authority upon such terms and for such purposes as they deem
214 advisable; and without limiting the generality of the above, authority is specifically
215 granted to municipal corporations, special districts, and counties and to the authority to
216 enter into contracts, lease agreements, or other undertakings relative to the furnishing of
217 water, waste-water, and storm-water services and facilities, or any of them, by the
218 authority to such municipal corporations, special districts, and counties for a term not
219 exceeding 50 years. As to any political subdivision, department, institution, or agency
220 of this state and all special districts and municipal corporations located in Douglas
221 County which shall enter into an agreement under the authority granted herein or in
222 paragraph (4) of this section, the obligation to perform and fulfill such agreement shall
223 constitute a general obligation of such entity for which its full faith and credit shall be and
224 hereby is pledged;

225 (7) In addition to and without limiting the generality of paragraph (6) of this section, the
226 authority shall have the right to enter into contracts, agreements, leases, or other
227 instruments necessary or convenient with any political subdivision, department,
228 institution, or agency of this state and all special districts and municipal corporations
229 located in Douglas County for the purpose of enabling the authority to perform any
230 functions pertaining to the protection of the water, waste-water, and storm-water systems
231 in Douglas County, Georgia, that may have been exercised by any such political
232 subdivision, department, institution, or agency of this state and all special districts and
233 municipal corporations located in Douglas County, including, but not limited to, the right
234 to regulate, monitor, inspect, and repair water, and waste-water or storm-water systems
235 and related appurtenances and facilities, pump stations, on-site sanitary sewerage
236 facilities, septic tanks, grease traps, pretreatment facilities, retention and detention
237 facilities, and any and all other related equipment, facilities, and systems;

238 (8) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,
239 equip, operate, and manage projects, the cost of any such project to be paid in whole or
240 in part from the proceeds of revenue bonds of the authority or other debt instrument,
241 revenues of the system, user fees, and any grant or payment from the United States of
242 America or any agency or instrumentality thereof or from the State of Georgia or any
243 agency, instrumentality, or political subdivision thereof;

244 (9) To make loans with, and accept grants or loans of money, or materials or property
245 of any kind from, the United States of America or any agency or instrumentality thereof,
246 upon such terms and conditions as the United States of America or such agency or
247 instrumentality may impose;

248 (10) To make loans with, and accept grants or loans of money, or materials or property
249 of any kind from, the State of Georgia or any agency, instrumentality, or political
250 subdivision thereof, upon such terms and conditions as the State of Georgia or such
251 agency, instrumentality, or political subdivision may impose;

252 (11) To borrow money for any of its corporate purposes, to issue negotiable revenue
253 bonds payable solely from funds pledged for that purpose, to issue other debt provided
254 by law, and to provide for the payment of the same and for the rights of the holders
255 thereof;

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

260 (13) To inspect all on-site sewage disposal systems which have been installed on
261 property for which the authority provides water service in the Dog River Drainage Basin
262 for the purpose of ensuring the proper operation of such systems; to have the right of
263 entry to go onto such property for the purposes of inspecting on-site sewage disposal
264 systems and repairing such systems under the authority granted by this subsection; to
265 recommend repairs to such systems which are necessary, in the opinion of the authority,
266 to make such systems operate properly; to perform such repairs as the authority considers
267 necessary to make such systems operate properly in the event that the property owner
268 fails or refuses to perform the repairs recommended by the authority; to discontinue water
269 service if determined, in the sole discretion of the authority, appropriate; to assess the cost
270 of any repairs performed by the authority or its agents against the owner of the property
271 on which such repairs were performed and to impose a lien for the costs of such repairs
272 upon the real estate records of the Clerk of the Superior Court of Douglas County or to
273 proceed with any other action to collect such sums; and to take any action in any court
274 to enforce the provisions of this subsection;

- 275 (14) To implement programs and regulations to protect water quality;
 276 (15) To implement programs and regulations for water conservation purposes;
 277 (16) To create, establish, acquire, operate, and control separate and distinct subsidiaries
 278 or affiliated entities, whether for profit or nonprofit, which shall maintain their own
 279 financial structures, rules and regulations, and assets and liabilities and which the
 280 authority determines to be consistent with and in furtherance of the purposes set forth in
 281 this Act and in the best interest of the authority; and
 282 (17) To do all things necessary or convenient to carry out the powers expressly given in
 283 this Act."

284 **SECTION 4.**

285 Said Act is further amended by revising Section 5A as follows:

286 "SECTION 5A.

287 Determinations of drainage.

288 The authority shall have the power to determine whether a parcel of real property is located
 289 within or outside the boundaries of the Dog River Drainage Basin and to determine
 290 whether the drainage from such parcel of real property flows within or outside the Dog
 291 River Drainage Basin. Such determinations shall be made upon the certification of a
 292 licensed Georgia professional engineer or hydrologist. If a parcel of real property which
 293 is determined to be located either within or outside the Dog River Drainage Basin drains
 294 into such basin, the authority shall be authorized to exercise those powers provided under
 295 paragraph (13) of Section 5 of this Act with respect to such parcel."

296 **SECTION 5.**

297 Said Act is further amended by revising Section 6 as follows:

298 "SECTION 6.

299 Financing projects.

300 The authority, or any authority or body which has or which may in the future succeed to
 301 the powers, duties, and liabilities vested in the authority created hereby, shall have power
 302 and is hereby authorized at one time, or from time to time, to borrow money for the
 303 purpose of paying all or any part of the cost of the project or any one or more projects and
 304 to provide by resolution for issuance of negotiable revenue bonds for that purpose. The
 305 principal and interest of such revenue bonds shall be payable solely from the special fund

306 herein provided for such payment. The bonds of each issue shall be dated, shall mature at
 307 such time or times not exceeding 30 years from their date or dates, shall be payable in such
 308 a medium of payment as to both principal and interest as may be determined by the
 309 authority, and may be made redeemable before maturity, at the option of the authority, at
 310 such price or prices and under such terms and conditions as may be fixed by the authority
 311 in the resolution providing for the issuance of the bonds. The interest rate or rates to be
 312 borne by any bonds and the time of payment of such interest shall be fixed, and with
 313 respect to any interest rate which floats in response to a variable, the method of calculation
 314 shall be fixed by the authority in the resolution providing for the issuance of the bonds.
 315 Any bonds issued by the authority shall be exempt from all laws of the State of Georgia
 316 governing usury or prescribing or limiting interest rates to be borne by bonds or other
 317 obligations. Nothing in this Act shall limit the ability of the authority to issue other debt
 318 instruments provided by law."

319 **SECTION 6.**

320 Said Act is further amended by revising Section 14 as follows:

321 "SECTION 14.

322 Same; conditions precedent to issuance; object of issuance.

323 Such revenue bonds may be issued without any other proceedings or the happening of any
 324 other conditions or things than those proceedings, conditions, and things which are
 325 specified or required by this Act. In the discretion of the authority, revenue bonds of a
 326 single issue may be issued for the purpose of any particular project. Any resolution
 327 providing for the issuance of revenue bonds under the provisions of this Act shall become
 328 effective immediately upon its passage and need not be published or posted, and any such
 329 resolution may be passed at any regular, special, or called meeting of the authority by a
 330 majority of the quorum as provided in this Act."

331 **SECTION 7.**

332 Said Act is further amended by revising Section 24 as follows:

333 "SECTION 24.

334 Moneys received considered trust funds.

335 All moneys received by the authority pursuant to this Act, whether as proceeds from the
 336 sale of revenue bonds, as proceeds of short term loans, as grants or other contributions, or

337 as revenues, fees, and earnings, shall be deemed to be trust funds to be held and applied
 338 solely as provided in this Act."

339 **SECTION 8.**

340 Said Act is further amended by revising Section 25 as follows:

341 "SECTION 25.

342 Purpose of the authority.

343 Without limiting the generality of any provisions of this Act, the general purpose of the
 344 authority is declared to be that of acquiring, equipping, constructing, maintaining, and
 345 operating adequate water supply treatment and distribution facilities, waste-water
 346 collection and treatment facilities, and storm-water management facilities and making such
 347 facilities and the services thereof available to public and private consumers, users, and
 348 beneficiaries located in the City of Douglasville, Douglas County, and their environs,
 349 including municipalities within and without the said county and to adjoining counties;
 350 extending and improving such facilities; and doing all things deemed by the authority
 351 necessary, convenient, and desirable for and incident to the efficient and proper
 352 development and operation for such type of undertakings."

353 **SECTION 9.**

354 Said Act is further amended by revising Section 26 as follows:

355 "SECTION 26.

356 Rates, charges and revenues; use.

357 The authority is hereby authorized to prescribe and fix and collect rates, fees, tolls, or
 358 charges, and to revise from time to time and collect such rates, fees, tolls, or charges for
 359 the services, facilities, or commodities furnished, and in anticipation of the collection of
 360 the revenues of such undertaking or project, to issue revenue bonds as herein provided to
 361 finance in whole or in part the cost of the acquisition, construction, reconstruction,
 362 improvement, betterment, or extension of the water, waste-water, and storm-water systems,
 363 and to pledge to the punctual payment of said bonds and interest thereon all or any part of
 364 the revenues of such undertaking or project, including the revenues of improvements,
 365 betterments, or extensions thereto thereafter made."

366 **SECTION 10.**

367 Said Act is further amended by revising Section 26A as follows:

368 "SECTION 26A.

369 The authority shall have the right to impose liens upon the real property of customers of
370 the authority who receive service from the authority, either for water, waste-water, or
371 storm-water services, and the aforesaid liens may be recorded upon the general execution
372 docket maintained by the Clerk of the Superior Court of Douglas County, Georgia. The
373 authority shall have all rights of recovery and collection against the property owner and the
374 actual customer utilizing the services or receiving the benefits of the authority as shall be
375 provided by law."

376 **SECTION 11.**

377 Said Act is further amended by adding a new Section 30A to read as follows:

378 "SECTION 30A.

379 Immunity from tort actions.

380 The authority shall have the same immunity and exemption from liability for torts and
381 negligence as the State of Georgia, and the officers, agents, and employees of the authority,
382 when in performance of work of the authority, shall have the same immunity and
383 exemption from liability for torts and negligence as officers, agents, and employees of the
384 State of Georgia. The authority may be sued the same as private corporations on any
385 contractual obligation of the authority."

386 **SECTION 12.**

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