

House Bill 1465 (AS PASSED HOUSE AND SENATE)

By: Representatives Fludd of the 66th, Heckstall of the 62nd, and Long of the 61st

A BILL TO BE ENTITLED
AN ACT

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

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Short title.

15 This Act shall be known and may be cited as the "City of College Park Water and Sewer
16 Authority Act."

17 **SECTION 2.**

18 City of College Park Water and Sewer Authority created.

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

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

25 (b) The authority shall consist of five members. The mayor and the members of the city
26 council of the City of College Park shall be the members of the authority, ex-officio. The
27 term of office as a member shall commence upon the commencement of the term of office
28 as mayor or a member of the city council of the City of College Park and shall terminate
29 upon termination of such term of office. Immediately upon the passage of this Act, the
30 members of the authority shall enter upon their duties and as soon as is practicable thereafter
31 shall hold an organizational meeting.

32 (c) The members of the authority shall not be entitled to compensation for their services but
33 shall be entitled to reimbursement for their actual expenses necessarily incurred in the
34 performance of their duties.

35 (d) The mayor of the City of College Park shall serve as ex-officio chairperson of the
36 authority, the mayor pro tempore of the City of College Park shall serve as ex-officio vice
37 chairperson of the authority, and the city clerk of the City of College Park shall serve as
38 ex-officio secretary of the authority.

39 (e) Three members of the authority shall constitute a quorum. Any action may be taken by
40 the authority upon the affirmative vote of a majority of the members. No vacancy on the
41 authority shall affect the requirement that three members of the authority constitute a
42 quorum.

43 (f) The authority shall have the power to establish bylaws and to promulgate and adopt rules
44 and regulations necessary or desirable for the management and operation of the authority.

45 SECTION 3.

46 Definitions.

47 As used in this Act, the term:

48 (1) "Authority" means the City of College Park Water and Sewer Authority created by
49 this Act.

50 (2) "Cost of the project" means and embraces the cost of construction; the cost of all
51 lands, real and personal properties, rights, easements, and franchises acquired; the cost
52 of buildings, improvements, materials, labor, and services contracted for; the cost of all
53 machinery and equipment; financing charges; capitalized interest prior to and during
54 construction and for six months after completion of construction; the cost of engineering,
55 architectural, fiscal agents and legal expenses, plans and specifications, and other
56 expenses necessary or incidental to determining the feasibility or practicability of the
57 project; administrative expenses and such other expenses as may be necessary or incident

58 to the financing authorized by this Act; working capital; and all other costs necessary to
59 acquire, construct, add to, extend, improve, equip, operate, and maintain the project.

60 (3) "Project" means (A) systems, plants, works, instrumentalities, and properties used or
61 useful in connection with the obtaining of a water supply and the conservation, treatment,
62 distribution, disposal, and sale of water for public and private uses and used or useful in
63 connection with the collection, transmission, treatment, and disposal of sewage, waste,
64 and storm water, together with all parts of any such system, plant, work, instrumentality,
65 and property and appurtenances thereto, including lands, easements, rights in land, water
66 rights, contract rights, franchises, approaches, dams, reservoirs, recreational facilities
67 adjacent to such reservoirs, generating stations, sewage disposal plants, interceptor
68 sewers, trunk lines and other sewer and water mains, filtration works, pumping stations,
69 and equipment; and (B) any undertaking permitted by the Revenue Bond Law.

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

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

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

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

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

84 **SECTION 4.**

85 Powers.

86 The authority shall have the power:

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

88 (2) To acquire by purchase, lease, gift, condemnation, or otherwise and to hold, own,
89 operate, maintain, lease, sell, convey, and dispose of real and personal property of every
90 kind and character for its corporate purposes;

91 (3) To acquire in its own name by purchase, on such terms and conditions and in such
92 manner as it may deem proper, or by condemnation, in accordance with the provisions

93 of any and all existing laws applicable to the condemnation of property for public use,
94 real property or rights or easements therein, or franchises necessary or convenient for its
95 corporate purposes, and to use the same so long as its corporate existence shall continue;
96 and to lease or make contracts for the use, sale, or disposition of the same in any manner
97 it deems to the best advantage of the authority, the authority being under no obligation
98 to accept and pay for any property condemned under this Act, except from the funds
99 provided under the authority of this Act. In any proceedings to condemn, such orders
100 may be made by the court having jurisdiction of the suit, action, or proceedings as may
101 be just to the authority and to the owners of the property to be condemned. No property
102 shall be acquired under the provisions of this Act upon which any lien or encumbrance
103 exists, unless at the time such property is so acquired a sufficient sum of money is to be
104 deposited in trust to pay and redeem the fair value of such lien or encumbrance;

105 (4) To combine its water, storm-water, and sewerage facilities into one system and to
106 operate and maintain its facilities as such;

107 (5) To appoint, select, and employ officers, agents, and employees, including
108 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
109 their respective compensation;

110 (6) To make and execute with public and private persons and corporations contracts,
111 leases, installment sales agreements, other agreements, and instruments necessary or
112 convenient in connection with the acquisition, construction, addition, extension,
113 improvement, equipping, operation, maintenance, lease, or sale of a project or the system.
114 Any and all persons, firms, and corporations; the state and any institution, department,
115 or other agency thereof; and any county, municipality, school district, or other political
116 subdivision or authority of the state are hereby authorized to enter into contracts, leases,
117 installment sale agreements, other agreements, or instruments with the authority upon
118 such terms and for such purposes as they deem advisable and as they are authorized by
119 law; and without limiting the generality of the foregoing, the authority is specifically
120 granted to municipal corporations, counties, and other political subdivisions and to the
121 authority to enter into contracts, lease agreements, installment sale agreements, or other
122 undertakings relative to the furnishing of services and facilities by the authority to such
123 municipal corporations, counties, and political subdivisions for a term not exceeding 50
124 years;

125 (7) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell
126 any project;

127 (8) To exercise the powers conferred upon a "public corporation" or a "public authority"
128 by Article IX, Section III, Paragraph I of the Constitution of Georgia, the authority being

129 hereby expressly declared to be a "public corporation" or a "public authority" within the
130 meaning of such Paragraph;

131 (9) To pay the cost of the project with the proceeds of revenue bonds or other obligations
132 issued by the authority or from any grant or contribution from the United States of
133 America or any agency or instrumentality thereof, from the state or any agency or
134 instrumentality or other political subdivision thereof, or from any other source
135 whatsoever;

136 (10) To accept gifts and bequests for its corporate purposes;

137 (11) To accept loans, grants, or loans and grants of money, materials, or property of any
138 kind from the United States of America or any agency or instrumentality thereof, upon
139 such terms and conditions as the United States of America or such agency or
140 instrumentality may require;

141 (12) To accept loans, grants, or loans and grants of money, materials, or property of any
142 kind from the state or any agency or instrumentality or political subdivision thereof, upon
143 such terms and conditions as the state or such agency or instrumentality or political
144 subdivision may require;

145 (13) To borrow money for any of its corporate purposes and to issue revenue bonds
146 payable solely from funds or revenues of the authority pledged for that purpose and to
147 pledge and assign any of its revenues, income, rent, charges, and fees to provide for the
148 payment of the same and to provide for the rights of the holders of such revenue bonds;

149 (14) To exercise any power usually possessed by private corporations performing similar
150 functions, provided that such power is not in conflict with the Constitution and statutes
151 of this state; and

152 (15) To do all things necessary or convenient to carry out the powers expressly given in
153 this Act.

154 **SECTION 5.**

155 Revenue bonds.

156 The authority shall have the power and is hereby authorized from time to time to provide by
157 resolution for the issuance of negotiable revenue bonds in the manner provided by the
158 Revenue Bond Law for the purpose of paying all or any part of the cost of any one or more
159 projects, including the cost of constructing, reconstructing, equipping, extending, adding to,
160 or improving any such project, or for the purpose of refunding, as provided by this Act, any
161 such bonds of the authority previously issued. The principal of and interest on such revenue
162 bonds shall be payable solely from such part of the revenues and earnings of such project or
163 projects as may be designated in the resolution of the authority authorizing the issuance of

164 such revenue bonds. The revenue bonds of each issue shall be issued and validated under
165 and in accordance with the provisions of the Revenue Bond Law.

166 **SECTION 6.**

167 Same; negotiability; exemption from taxation.

168 All revenue bonds issued under the provisions of this Act shall have and are hereby declared
169 to have all the qualities and incidents of negotiable instruments under the negotiable
170 instruments laws of the state. All revenue bonds, their transfer, and the income therefrom
171 shall be exempt from all taxation within the state.

172 **SECTION 7.**

173 Credit not pledged.

174 Revenue bonds issued under the provisions of this Act shall not constitute a debt or a pledge
175 of the faith and credit of the State of Georgia or of the City of College Park, but such bonds
176 shall be payable solely from such part of the revenues and earnings of such project or
177 projects as may be designated in the resolution of the authority authorizing the issuance of
178 such bonds. The issuance of such revenue bonds shall not directly, indirectly, or
179 contingently obligate the State of Georgia or the City of College Park to levy or to pledge
180 any form of taxation whatever for the payment thereof. No holder of any bond or receiver
181 or trustee in connection therewith shall have the right to enforce the payment thereof against
182 any property of the State of Georgia or the City of College Park nor shall any such bond
183 constitute a charge, lien, or encumbrance, legal or equitable, upon any such property. All
184 such bonds shall contain on their face a recital setting forth substantially the foregoing
185 provisions of this section. The City of College Park, however, may obligate itself to pay the
186 amounts required under any contract entered into with the authority from funds received
187 from taxes to be levied and collected for that purpose and from any other source to the extent
188 necessary to pay the obligations contractually incurred with the authority; and the obligation
189 to make such payments shall constitute a general obligation and a pledge of the full faith and
190 credit of the City of College Park but shall not constitute a debt of the City of College Park
191 within the meaning of Article IX, Section V, Paragraph I of the Constitution of Georgia; and,
192 when the City of College Park contracts with the authority to make such payments from taxes
193 to be levied for that purpose, then the obligation shall be mandatory to levy and collect such
194 taxes from year to year in an amount sufficient to fulfill and comply fully with the terms of
195 such contract.

196

SECTION 8.

197

Trust indenture as security.

198 In the discretion of the authority, any issue of such revenue bonds may be secured by a trust
199 indenture by and between the authority and a corporate trustee, which may be any trust
200 company or bank having the powers of a trust company within or outside of the State of
201 Georgia. Such trust indenture may pledge or assign fees, tolls, rents, revenues, and earnings
202 to be received by the authority, including the proceeds derived from the sale or lease, from
203 time to time, of any project. Either the resolution providing for the issuance of revenue
204 bonds or such trust indenture may contain such provisions for protecting and enforcing the
205 rights and remedies of the bondholders as may be reasonable and proper and not in violation
206 of law, including covenants setting forth the duties of the authority in relation to the
207 acquisition and construction of any project, the maintenance, operation, repair, and insurance
208 of any project, and the custody, safeguarding, and application of all moneys, including the
209 proceeds derived from the sale or lease of any project; may provide that any project shall be
210 acquired and constructed under the supervision and approval of consulting engineers or
211 architects employed or designated by the authority and satisfactory to the original purchasers
212 of the bonds issued therefor; may require that the security given by contractors and by any
213 depository of the proceeds of the bonds or revenues or other moneys be satisfactory to such
214 purchasers; may contain provisions concerning the conditions, if any, upon which additional
215 revenue bonds pledging all or any part of the revenues and earnings of such project or
216 projects may be issued; and may contain such other provisions as the authority may deem
217 reasonable and proper for the security of the bondholders. Such indenture may set forth the
218 rights and remedies of the bondholders and of the trustee. All expenses incurred in carrying
219 out such trust indenture may be treated as a part of the cost of maintenance, operation, and
220 repair of the project affected by such indenture.

221

SECTION 9.

222

Sinking fund.

223 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
224 fines, charges, and earnings derived from any particular project or projects, regardless of
225 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
226 particular project for which revenue bonds have been issued, unless otherwise pledged and
227 allocated, may be pledged and allocated by the authority to the payment of the principal and
228 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
229 revenue bonds or the trust indenture may provide; and such funds so pledged from whatever

230 source received shall be set aside at regular intervals as may be provided in the resolution or
 231 trust indenture into a sinking fund which shall be pledged to and charged with the payment
 232 of:

- 233 (1) The interest upon such revenue bonds as such interest shall fall due;
- 234 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- 235 (3) Any premium upon such revenue bonds retired by call or purchase;
- 236 (4) The purchase of such revenue bonds in the open market; and
- 237 (5) The necessary charges of any paying an agent or agents for paying principal and
 238 interest.

239 The use and disposition of such sinking fund shall be subject to such regulations as may be
 240 provided in the resolution authorizing the issuance of the revenue bonds or in the trust
 241 indenture, but, except as may otherwise be provided in such resolution or trust indenture,
 242 such sinking fund shall be maintained as a trust account for the benefit of all revenue
 243 bondholders without distinction or priority of one over another. Subject to the provisions of
 244 the resolution authorizing the issuance of the bonds or the trust indenture, any surplus
 245 moneys in the sinking fund may be applied to the purchase or redemption of bonds and any
 246 such bonds so purchased or redeemed shall forthwith be canceled and shall not be reissued,
 247 printed, or delivered.

248 **SECTION 10.**

249 Refunding bonds.

250 The authority is hereby authorized to provide by resolution for the issuance of revenue
 251 refunding bonds of the authority for the purpose of refunding any revenue bonds issued under
 252 the provisions of this Act and then outstanding, together with accrued interest thereon and
 253 any premium required for the payment of such bonds prior to maturity. The issuance of such
 254 revenue bonds and all the details thereof, the rights of the holders thereof, and the duties of
 255 the authority with respect to the same, shall be governed by the foregoing provisions of this
 256 Act insofar as the same may be applicable.

257 **SECTION 11.**

258 Validation.

259 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
 260 the procedure of the Revenue Bond Law. The petition for validation shall also make party
 261 defendant to such action any county, municipality, school district, or other political
 262 subdivision or authority of the state which has contracted with the authority for services or

263 facilities relating to the project for which revenue bonds are to be issued and sought to be
264 validated, and such defendant shall be required to show cause, if any exists, why such
265 contract or contracts and the terms and conditions thereof should not be inquired into by the
266 court and the validity of the terms thereof be determined and the contract adjudicated as
267 security for the payment of any such bonds of the authority. The bonds, when validated, and
268 the judgment of validation shall be final and conclusive regarding the validity of such bonds
269 against the authority, and the validity of the contract and of the terms and conditions thereof,
270 when validated, and the judgment of validation shall be final and conclusive against each
271 such other defendant if it be a party to the validation proceeding.

272 **SECTION 12.**

273 Venue and jurisdiction.

274 Any action to protect or enforce any rights under the provisions of this Act or any suit or
275 action against the authority shall be brought in the Superior Court of Fulton County, Georgia,
276 and any action pertaining to validation of any revenue bonds issued under the provisions of
277 this Act shall likewise be brought in such court, which shall have exclusive, original
278 jurisdiction of such actions.

279 **SECTION 13.**

280 Interest of bondholders protected.

281 While any of the revenue bonds issued by the authority remain outstanding, the powers,
282 duties, or existence of the authority or its officers, employees, or agents shall not be
283 diminished or impaired in any manner that will affect adversely the interests and rights of the
284 holders of such revenue bonds. The provisions of this section shall be for the benefit of the
285 authority and the holders of any such revenue bonds and upon the issuance of such revenue
286 bonds shall constitute a contract with the holders of such revenue bonds.

287 **SECTION 14.**

288 Moneys received considered trust funds.

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

292 **SECTION 15.**

293 Purpose of the authority.

294 Without limiting the generality of any provisions of this Act, the general purposes of the
295 authority are declared to be those of acquiring, constructing, equipping, maintaining, and
296 operating adequate water supply, treatment, and distribution facilities; waste-water
297 collection, treatment, and distribution facilities; and storm-water management facilities and
298 extending and improving such facilities as necessary.

299 **SECTION 16.**

300 Rates, charges, and revenues; use.

301 The authority is hereby authorized to prescribe and fix rates and to revise the same from time
302 to time and to collect revenues, tolls, fees, fines, and charges for the services, facilities, and
303 commodities furnished, including leases, concessions, or subleases of its projects, and to
304 determine the price and terms at and under which its projects may be sold.

305 **SECTION 17.**

306 Rules, regulations, service policies, and procedures for operation of projects.

307 It shall be the duty of the authority to prescribe rules, regulations, service policies, and
308 procedures for the operation of any project or projects constructed or acquired under the
309 provisions of this Act and intended to be operated by the authority, including the basis upon
310 which water service and facilities, sewerage service and facilities, or storm-water service and
311 facilities shall be furnished.

312 **SECTION 18.**

313 Tort immunity.

314 The authority shall have the same immunity and exemption from liability for torts and
315 negligence as the City of College Park, and the officers, agents, and employees of the
316 authority, when in the performance of the work of the authority, shall have the same
317 immunity and exemption from liability for torts and negligence as officers, agents, and
318 employees of the City of College Park when in the performance of their public duties or work
319 of the municipality.

320 **SECTION 19.**

321 Tax-exempt status of authority.

322 The properties of the authority, both real and personal, and the income derived therefrom are
 323 declared to be public properties used for the benefit and welfare of the people of this state
 324 and not for purposes of private or corporate benefit and income, and such properties, the
 325 income derived therefrom, and the authority shall be exempt from all taxes and special
 326 assessments of any city or county or the state or any political subdivision thereof.

327 **SECTION 20.**

328 Effect on other governments.

329 This Act shall not and does not in any way take from the City of College Park or any other
 330 municipality or political subdivision the authority to own, operate, and maintain a water
 331 system, a sewerage system, or a storm-water system, or any combination thereof, or to issue
 332 revenue bonds as provided by the Revenue Bond Law. The foregoing sections of this Act
 333 shall be deemed to provide an additional and alternative method for the doing of the things
 334 authorized by this Act and shall be regarded as supplemental and additional to powers
 335 conferred by other laws and shall not be regarded as in derogation of any powers now
 336 existing.

337 **SECTION 21.**

338 Property not subject to levy and sale.

339 The property of the authority shall not be subject to levy and sale under legal process.

340 **SECTION 22.**

341 Authority without taxing power.

342 The authority shall not have the right to impose any tax on any person or property.

343 **SECTION 23.**

344 Severability.

345 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
 346 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
 347 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full

348 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
349 adjudged invalid or unconstitutional were not originally a part hereof. The General
350 Assembly declares that it would have passed the remaining parts of this Act if it had known
351 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

352 **SECTION 24.**

353 Liberal construction of Act.

354 This Act shall be liberally construed to effect the purposes hereof.

355 **SECTION 25.**

356 Effective date.

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

359 **SECTION 26.**

360 Repealer.

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