

House Bill 836

By: Representative Ralston of the 7th

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 for a referendum; to provide an effective date; to provide for contingent
7 repeal; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

11 **SECTION 2.**

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

20 **SECTION 3.**

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

22 (1) "Authority" shall mean the Fannin County Water Authority Act created by Section 2
23 of this Act.

24 (2) "County" shall mean the unincorporated areas of Fannin County, Georgia.

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

28 (4) "Revenue bonds" and "bonds" shall mean revenue bonds, certificates, and other
29 obligations of the Authority, as defined and provided for in Article 3 of Chapter 82 of
30 Title 36 of the Official Code of Georgia Annotated, the "Revenue Bond Law," and such
31 type of obligations may be issued by the Authority under this Act and as authorized under
32 said 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" shall mean 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. Three
40 members shall be appointed by the Chairman. One member appointed by the Chairman
41 of the Board of Commissioners shall serve as the initial chairman of the Authority. This
42 member shall serve for a three-year term. This member shall also serve as the initial
43 Chairman of the Authority for one year. Thereafter the Chairman of the Authority shall be
44 elected by a majority vote of the members of the Authority. One member of the Authority
45 appointed by the Chairman of the Board of Commissioners shall serve a one-year term and
46 the remaining member appointed by the Chairman of the Board of Commissioners shall
47 serve a two-year term. The Post One Commissioner shall appoint two members to the
48 Authority. The Post Two Commissioner shall appoint two members to the Authority.
49 Each post commissioner shall appoint one member to a two-year term and one member to
50 a three-year term. As the term of each member of the Authority expires, the appointment
51 to the Authority shall rest with the respective member of the Board of Commissioners. All
52 appointments shall be appointed at a regular scheduled meeting of the Board of
53 Commissioners. All succeeding terms shall be for a period of three years. The Executive
54 Director of the Fannin County Development Authority shall serve as a nonvoting member
55 of the Authority. All members shall be residents of Fannin County, either in the
56 unincorporated or incorporated areas of the County. No person initially appointed or his
57 or her successors in office shall serve more than two consecutive terms. Any member of
58 the Board of Commissioners may appoint himself or herself to the Authority.

59 (b) The Authority may declare that any member missing three consecutive meetings of the
60 Authority has vacated his or her office. The Authority may for good cause shown excuse

61 any absence of an individual member so that it does not count toward this limit. If the
62 Authority declares an office vacated, it may request the appropriate member of the Fannin
63 County Board of Commissioners to name a successor to serve the balance of that former
64 member's term. Within 30 days of receiving such a request, a successor shall be appointed.
65 Members of the Authority shall be officers of the Authority when performing the functions
66 of those offices and shall not be deemed to be officers of the county or any other entity.

67 (c) All members shall be reimbursed for their actual expenses necessarily incurred in the
68 performance of their duties, including mileage reimbursed at the standard business mileage
69 rate as determined by the Internal Revenue Service and adopted by the Authority for
70 official travel outside of the county.

71 (d) A quorum of the members of the Authority shall be required to transact any business.
72 Four members of the Authority shall constitute a quorum.

73 (e) After the first year, the Authority shall elect a chairperson from its members to serve
74 a one-year term. There shall be no limit to the number of terms, consecutive or otherwise,
75 that a member may serve as the chairperson.

76 **SECTION 5.**

77 The Authority shall contract with an individual to serve as director to manage the system as
78 its employee. The director shall not be a member of the Authority and shall not be deemed
79 to be an employee of the county. However, the Authority may enter into an agreement with
80 the county to provide benefits to its employees in conjunction with the county's benefits
81 package. This is optional on the part of the Authority and the county.

82 **SECTION 6.**

83 Without limiting the generality of any provisions 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 and/or sewer system utilizing the systems and assets of the county and any
96 city water and sewer systems that elect to enter into a service agreement with the
97 Authority and to provide water and sewer services to all citizens and customers in the
98 county and any cities that are participating and to citizens and customers in the political
99 subdivision. The Authority shall operate its system or systems in conformity with all
100 applicable regulations, licenses, and permits and shall be liable to pay any fines or
101 assessments resulting from failure to conform to same;
- 102 (3) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of
103 real and personal property of every kind and character for its corporate purposes;
- 104 (4) To acquire real or personal property in its own name by purchase, lease, exchange,
105 gift, or otherwise on such terms and conditions and in such a manner as it may deem
106 proper, necessary, or convenient for its corporate purposes, and to use the same so long
107 as its corporate existence shall continue, and to lease or make contracts with respect to
108 the use of, or dispose of the same in any manner it deems to the best advantage of the
109 Authority, and no property shall be acquired under the provisions of this Act upon which
110 any lien or other encumbrance exists unless at the time such property is so acquired a
111 sufficient sum of money shall be deposited in trust to pay and reduce the face value of
112 such lien or encumbrance;
- 113 (5) To appoint, select, and employ such officers, agents, and employees as shall be
114 necessary in the judgment of the Authority to accomplish the purposes of the Authority,
115 including accountants, auditors, attorneys, consulting engineers, and other professionals;
116 to fix their respective compensation; and to provide for pension and retirement plans for
117 these officers, agents, and employees;
- 118 (6) To formulate and adopt an annual operating budget of all its revenues and expenses.
119 On or before August of each year the Authority shall submit its proposed budget to the
120 county and the participating cities for their comments before its adoption by the
121 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 with
124 respect to the use of projects which it causes to be constructed, erected, or acquired. Any
125 and all persons, firms, and corporations and any and all political subdivisions,
126 departments, institutions, or agencies of the state are authorized to enter into contracts,
127 leases, or agreements with the Authority upon such terms and for such purposes as they
128 deem 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 county,
165 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. However,
175 any one acquisition shall not exceed 20 acres.

176 **SECTION 9.**

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

180 **SECTION 10.**

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

195 **SECTION 11.**

196 The Authority is authorized to provide by resolution for the issuance of refunding bonds of
197 the Authority for the purpose of refunding any revenue bonds issued under the provisions of
198 this Act and then outstanding, together with accrued interest thereon, and to refund any

199 revenue bonds issued by the county, or the Authority with respect to any facilities to be
200 acquired by the Authority from the county, or other political subdivision or authority.

201 **SECTION 12.**

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

207 **SECTION 13.**

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

211 **SECTION 14.**

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

216 **SECTION 15.**

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

219 **SECTION 16.**

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

226 **SECTION 17.**

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

229

SECTION 18.

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