

House Bill 1265

By: Representatives Beverly of the 139th, Randall of the 138th, Epps of the 140th, Dickey of the 136th, and Peake of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To create the Macon-Bibb County Community Enhancement Authority; to provide a
2 statement of legislative findings; to define certain terms; to provide for a board of trustees,
3 appointment of members, and meetings; to provide for powers and duties; to authorize the
4 issuance of revenue bonds of the authority and to authorize the collection for the payment
5 of such revenue bonds; to make the revenue bonds of the authority exempt from taxation; to
6 fix and provide the venue and jurisdiction of actions relating to any provisions of this Act;
7 to provide for the validation of bonds; to provide for related matters; to provide for an
8 effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Short title.

12 This Act shall be known and may be cited as the "Macon-Bibb County Community
13 Enhancement Authority Act."

14 SECTION 2.

15 Legislative findings.

16 (1) The General Assembly finds that pockets of extreme poverty exist throughout the
17 state, and these pockets are surrounded areas that are in some cases areas of only slightly
18 less severe poverty and in other cases areas of relative prosperity or even great wealth.

19 (2) While agencies and programs now exist for the purposes of commercial development,
20 elimination of blight, community improvement, and alleviation of poverty, none of those
21 programs are designed to provide a holistic approach to the myriad problems found in
22 these pockets of poverty which act in concert to defeat anything other than a concentrated
23 program flexible enough to address the problems unique to certain areas.

24 (3) It is the intent of the General Assembly in creating the Macon-Bibb County
 25 Community Enhancement Authority to establish an entity capable of identifying and
 26 targeting the specific elements which are causing intractable poverty in these pockets of
 27 severe poverty and develop programs to address them as a unit.

28 **SECTION 3.**

29 Macon-Bibb County Community Enhancement Authority.

30 (a) There is created a public body corporate and politic to be known as the "Macon-Bibb
 31 County Community Enhancement Authority," which shall be deemed to be a political
 32 subdivision of the state and a public corporation, and by that name, style, and title said body
 33 may contract and be contracted with, sue and be sued, implead and be impleaded, and
 34 complain and defend in all courts of law and equity. The authority shall have perpetual
 35 existence.

36 (b) The authority shall be governed by a board of trustees consisting of a chairperson and
 37 four members. The chairperson shall be selected by majority vote of the Bibb County
 38 Delegation to the General Assembly of Georgia. Two members shall be appointed by the
 39 chairperson. One member each shall be appointed by the governing authorities of Bibb
 40 County and the City of Macon. Members shall serve terms of four years.

41 **SECTION 4.**

42 Definitions.

43 As used in this Act, the term:

44 (1) "Authority" means the Macon-Bibb County Community Enhancement Authority
 45 created by this Act.

46 (2) "Board" means the board of trustees of the Macon-Bibb County Community
 47 Enhancement Authority.

48 (3) "Category IV poverty area" means an area designated by the federal Department of
 49 Commerce as a census block in which the poverty level is 40 percent or higher.

50 (4) "Community development project" means a project developed by the authority to
 51 improve the business, commercial, and residential infrastructure of a category IV poverty
 52 area. Such project shall be designed according to the specific problems and needs of the
 53 area addressed and may, without limitation, be designed to eliminate blight, encourage
 54 the establishment or growth of commercial endeavors, or improve the quality of life in
 55 such area through the creation of affordable housing, parks, and recreation facilities and
 56 programs.

57 (5) "Costs of the project" means and embraces the cost of construction; the cost of all
 58 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
 59 equipment; financing charges; interest prior to and during construction and for six months
 60 after completion of construction; the cost of engineering, architectural, fiscal agents,
 61 accounting, legal expenses, plans, specifications, and other expenses necessary or
 62 incidental to determining the feasibility or practicability of the project; administrative
 63 expenses and such other expenses as may be necessary or incident to the financing herein
 64 authorized; working capital; and all other costs necessary to acquire, construct, add to,
 65 extend, improve, equip, operate, and maintain the project.

66 (6) "Project" means any undertaking permitted by the revenue bond law.

67 (7) "Revenue bond law" means the revenue bond laws of the State of Georgia found at
 68 Article 3 of Chapter 82 of Title 36 of the O.C.G.A. or any other similar law hereinafter
 69 enacted.

70 (8) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

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

78 (10) "State" means the State of Georgia.

79 SECTION 5.

80 Powers.

81 The authority shall have the power:

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

83 (2) To accept loans or grants of money or materials or property of any kind from the
 84 United States of America or any agency or instrumentality thereof, upon such terms and
 85 conditions as the United States of America or such agency or instrumentality may
 86 require;

87 (3) To accept loans or grants of money or materials or property of any kind from the state
 88 or any agency or instrumentality or political subdivision thereof, upon such terms and
 89 conditions as the state or such agency or instrumentality or political subdivision may
 90 require;

- 91 (4) To accept loans or grants of money or materials or property of any kind from private
92 corporations, individuals, and entities, upon such terms and conditions as such private
93 corporations, individuals, and entities may require;
- 94 (5) To administer funds under its control so as to engage in community development
95 projects in category IV poverty areas; provided, however, that when an area improves to
96 the point that it is no longer classified as a category IV poverty area, the authority shall
97 phase out involvement in such area and turn over projects to local authorities over the
98 period of one year following the redesignation of the area;
- 99 (6) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,
100 maintain, lease, and dispose of real and personal property of every kind and character for
101 its corporate purposes;
- 102 (7) To coordinate the activities of federal, state, local, and private entities to pursue
103 community development projects;
- 104 (8) To contract for the construction of buildings and facilities and to use, sell, or lease
105 such buildings and facilities to accomplish the purposes of the authority;
- 106 (9) To acquire in its own name by purchase, on such terms and conditions and in such
107 manner as it may deem proper, or by condemnation in accordance with the provisions of
108 any and all existing laws applicable to the condemnation of property for public use, real
109 property or rights or easements therein, or franchises necessary or convenient for its
110 corporate purposes, and to use the same so long as its corporate existence shall continue,
111 and to lease or make contracts with respect to the use of or dispose of the same in any
112 manner it deems to the best advantage of the authority, the authority being under no
113 obligation to accept and pay for any property condemned under this Act, except from the
114 funds provided under the authority of this Act, and in any proceedings to condemn, such
115 orders may be made by the court having jurisdiction of the suit, action, or proceedings
116 as may be just to the authority and to the owners of the property to be condemned, and
117 no property shall be acquired under the provisions of this Act upon which any lien or
118 encumbrance exists, unless at the time such property is so acquired a sufficient sum of
119 money is to be deposited in trust to pay and redeem the fair value of such lien or
120 encumbrances;
- 121 (10) To appoint, select, and employ officers, agents, and employees, including
122 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
123 their respective compensations;
- 124 (11) To execute contracts, leases, installment sale agreements, and other agreements and
125 instruments necessary or convenient in connection with the acquisition, construction,
126 addition, extension, improvement, equipping, operation, or maintenance of a project; and
127 any and all persons, firms and corporations, Bibb County, and the City of Macon,

128 Georgia, and Payne City are authorized to enter into contracts, leases, installment sale
 129 agreements, and other agreements or instruments with the authority upon such terms and
 130 for such purposes as they deem advisable and as they are authorized by law;

131 (12) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,
 132 and dispose of projects;

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

138 (14) To borrow money for any of its corporate purposes and to issue revenue bonds, and
 139 to provide for the payment of the same and for the rights of the holders thereof;

140 (15) To exercise any power usually possessed by private corporations performing similar
 141 functions, including the power to incur short-term debt and to approve, execute, and
 142 deliver appropriate evidence of any such indebtedness; and

143 (16) To do all things necessary or convenient to carry out the powers expressly given in
 144 this Act.

145 **SECTION 6.**

146 Meetings and public hearings.

147 The board shall meet at the call of the chairperson. In addition, the board shall hold public
 148 hearings in each category IV poverty area within which it operates or anticipates operating
 149 a community development project to receive public comments relating to the needs of the
 150 community and possible ways to address such needs. The board shall consider, but shall not
 151 be bound by, such comments and suggestions.

152 **SECTION 7.**

153 Revenue bonds.

154 The authority, or any authority or body which has or which may in the future succeed to the
 155 powers, duties, and liabilities vested in the authority created by this Act, shall have power
 156 and is authorized to provide by resolution for the issuance of revenue bonds of the authority
 157 for the purpose of paying all or any part of the costs of the project and for the purpose of
 158 refunding revenue bonds or other obligations previously issued. The principal of and interest
 159 on such revenue bonds shall be payable solely from the special fund provided for such
 160 payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or

161 rates per annum, payable at such time or times, shall mature at such time or times not
162 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
163 to both principal and interest as may be determined by the authority, and may be redeemable
164 before maturity, at the option of the authority, at such price or prices and under such terms
165 and conditions as may be fixed by the authority in the resolution for the issuance of such
166 revenue bonds.

167 **SECTION 8.**

168 Same, form, denomination, registration, place of payment.

169 The authority shall determine the form of the revenue bonds and shall fix the denomination
170 or denominations of the revenue bonds. The revenue bonds may be issued in coupon or
171 registered form, or both, as the authority may determine, and provision may be made for
172 registration and exchangeability privileges. The authority shall fix the place or places of
173 payment of principal and interest thereon.

174 **SECTION 9.**

175 Same, signatures, seal.

176 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
177 vice chairperson of the authority and the attesting manual or facsimile signature of the
178 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of
179 the authority shall be impressed or imprinted thereon. Any coupons attached thereto shall
180 bear the manual or facsimile signatures of the chairperson or vice chairperson and the
181 secretary, assistant secretary or secretary-treasurer of the authority. Any revenue bonds or
182 coupons attached thereto may bear the manual or facsimile signature of such persons as at
183 the actual time of the execution of such revenue bonds or coupons shall be duly authorized
184 or hold the proper office, although at the date of issuance of such revenue bonds such person
185 may not have been so authorized or shall not have held such office. In case any officer
186 whose signature shall appear on any revenue bond or any coupon shall cease to be such
187 officer before the delivery of such revenue bond, such signature shall nevertheless be valid
188 and sufficient for all purposes, the same as if that person had remained in office until such
189 delivery.

190 **SECTION 10.**

191 Same, negotiability, exemption from taxation.

192 All revenue bonds shall have and are declared to have all the qualities and incidents of
193 negotiable instruments under the laws of the state. All revenue bonds, their transfer, and the
194 income therefrom shall be exempt from all taxation within the state.

195 **SECTION 11.**

196 Same, sale, price, proceeds.

197 The authority may sell revenue bonds in such manner and for such price as it may determine
198 to be in the best interest of the authority. The proceeds derived from the sale of revenue
199 bonds shall be used solely for the purpose or purposes provided in the resolutions and
200 proceedings authorizing the issuance of such revenue bonds.

201 **SECTION 12.**

202 Same, interim receipts and certificates or temporary bonds.

203 Prior to the preparation of any definitive revenue bonds, the authority may, under like
204 restrictions, issue interim receipts, interim certificates, or temporary revenue bonds, with or
205 without coupons, exchangeable for definitive revenue bonds upon the issuance of the latter.

206 **SECTION 13.**

207 Same, replacement of lost or mutilated bonds.

208 The authority may provide for the replacement of any revenue bonds or coupons which shall
209 become mutilated or be destroyed or lost.

210 **SECTION 14.**

211 Same, conditions precedent to issuance.

212 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
213 resolution, the authority shall determine that the project financed with the proceeds of the
214 revenue bonds is self-liquidating. Revenue bonds may be issued without any other
215 proceedings or the happening of any other conditions or things other than those proceedings,
216 conditions, and things which are specified or required by this Act. Any resolution providing
217 for the issuance of revenue bonds under the provisions of this Act shall become effective

218 immediately upon its passage and need not be published or posted, and any such resolution
219 may be passed at any regular or special or adjourned meeting of the authority by a majority
220 of its members.

221 **SECTION 15.**

222 Credit not pledged.

223 Revenue bonds shall not be deemed to constitute a debt of Bibb County or the City of
224 Macon, Georgia, nor a pledge of the faith and credit of the county or city, but such revenue
225 bonds shall be payable solely from the fund provided for in this Act. The issuance of such
226 revenue bonds shall not directly, indirectly, or contingently obligate the county or city to levy
227 or to pledge any form of taxation whatsoever for payment of such revenue bonds or to make
228 any appropriation for their payment, and all such revenue bonds shall contain recitals on their
229 face covering substantially the foregoing provisions of this section. Notwithstanding the
230 foregoing provisions, this Act shall not affect the ability of the authority and any political
231 subdivision or municipality to enter into an intergovernmental contract pursuant to which the
232 political subdivision or municipality agrees to pay amounts sufficient to pay operating
233 charges and other costs of the authority or any project including, without limitation, the
234 principal of and interest on revenue bonds in consideration for services or facilities of the
235 authority.

236 **SECTION 16.**

237 Trust indenture as security.

238 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
239 indenture by and between the authority and a corporate trustee, which may be any trust
240 company or bank having the powers of a trust company inside or outside the state. Either the
241 resolution providing for the issuance of the revenue bonds or such trust indenture may
242 contain such provisions for protecting and enforcing the rights and remedies of the
243 bondholders as may be reasonable and proper and not in violation of law, including
244 covenants setting forth the duties of the authority in relation to the acquisition and
245 construction of the project, the maintenance, operation, repair, and insuring of the project,
246 and the custody, safeguarding, and application of all moneys.

247 **SECTION 17.**

248 To whom proceeds of bonds shall be paid.

249 In the resolution providing for the issuance of revenue bonds or in the trust indenture, the
 250 authority shall provide for the payment of the proceeds of the sale of the revenue bonds to
 251 any officer or person who, or any agency, bank, or trust company which, shall act as trustee
 252 of such funds and shall hold and apply the same to the purposes thereof subject to such
 253 regulations as this Act and such resolution or trust indenture may provide.

254 **SECTION 18.**

255 Sinking fund.

256 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
 257 charges, and earnings derived from any particular project or projects, regardless of whether
 258 or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular
 259 project for which revenue bonds have been issued, unless otherwise pledged and allocated,
 260 may be pledged and allocated by the authority to the payment of the principal and interest
 261 on revenue bonds of the authority as the resolution authorizing the issuance of the revenue
 262 bonds or in the trust indenture may provide, and such funds so pledged from whatever source
 263 received shall be set aside at regular intervals as may be provided in the resolution or trust
 264 indenture into a sinking fund, which sinking fund shall be pledged to and charged with the
 265 payment of:

- 266 (1) The interest upon such revenue bonds as such interest shall fall due;
 267 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
 268 (3) Any premium upon such revenue bonds as the same shall fall due;
 269 (4) The purchase of such revenue bonds in the open market; and
 270 (5) The necessary charges of the paying agent for paying principal and interest.

271 The use and disposition of such sinking fund shall be subject to such regulations as may be
 272 provided in the resolution authorizing the issuance of the revenue bonds or in the trust
 273 indenture, but, except as may otherwise be provided in such resolution or trust indenture,
 274 such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds
 275 without distinction or priority of one over another.

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SECTION 19.

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Remedies of bondholders.

278 Any holder of revenue bonds or any of the coupons appertaining thereto, and the trustee
279 under the trust indenture, if any, except to the extent the rights herein given may be restricted
280 by resolution passed before the issuance of the revenue bonds or by the trust indenture, may,
281 either at law or in equity, by suit, action, mandamus, or other proceedings, protect and
282 enforce any and all rights under the laws of the state, including specifically but without
283 limitation the revenue bond law, or granted hereunder or under such resolution or trust
284 indenture, and may enforce and compel performance of all duties required by this Act or by
285 such resolution or trust indenture to be performed by the authority or any officer thereof,
286 including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges
287 for the use of the facilities and services furnished.

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SECTION 20.

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Validation.

290 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
291 the procedure of the revenue bond law. The petition for validation shall also make a party
292 defendant to such action the state; any institution, department, or other agency thereof; and
293 any county, municipality, school district, or other political subdivision or authority of the
294 state which has contracted with the authority for services or facilities relating to the project
295 for which revenue bonds are to be issued and sought to be validated, and such defendant shall
296 be required to show cause, if any exists, why such contract or contracts shall not be
297 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.
298 The revenue bonds when validated and the judgment of validation shall be final and
299 conclusive with respect to such revenue bonds and the security for the payment thereof and
300 interest thereon and against the authority and all other defendants.

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SECTION 21.

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Venue and jurisdiction.

303 Any action to protect or enforce any rights under the provisions of this Act or any suit or
304 action against such authority shall be brought in the Superior Court of Bibb County, Georgia,
305 and any action pertaining to validation of any revenue bonds issued under the provisions of
306 this Act shall likewise be brought in said court which shall have exclusive, original
307 jurisdiction of such actions.

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SECTION 22.

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Interest of bondholders protected.

310 While any of the revenue bonds issued by the authority remain outstanding, the powers,
311 duties, or existence of the authority or its officers, employees, or agents shall not be
312 diminished or impaired in any manner that will affect adversely the interests and rights of the
313 holders of such revenue bonds, and no other entity, department, agency, or authority will be
314 created which will compete with the authority to such an extent as to affect adversely the
315 interest and rights of the holders of such revenue bonds, nor will the state itself so compete
316 with the authority. The provisions of this Act shall be for the benefit of the authority and the
317 holders of any such revenue bonds and upon the issuance of such revenue bonds under the
318 provisions hereof shall constitute a contract with the holders of such revenue bonds.

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SECTION 23.

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Moneys received considered trust funds.

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

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SECTION 24.

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Purpose of the authority.

326 Without limiting the generality of any provision of this Act, the general purpose of the
327 authority is declared to be that of eliminating Category IV poverty.

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SECTION 25.

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Rates, charges, and revenues, use.

330 The authority is authorized to prescribe and fix rates and to revise the same from time to time
331 and to collect revenues, tolls, fees, and charges for the services, facilities, and commodities
332 furnished and, in anticipation of the collection of the revenues, to issue revenue bonds or
333 other types of obligations as herein provided to finance, in whole or in part, the costs of the
334 project and to pledge to the punctual payment of said revenue bonds or other obligations all
335 or any part of the revenues.

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SECTION 26.

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Rules, regulations, service policies, and

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procedures for operation of projects.

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It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations,

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service policies, and procedures for the operation of any project or projects constructed or

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acquired under the provisions of this Act. The authority may adopt bylaws.

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SECTION 27.

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Tort immunity.

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To the extent permitted by law, the authority shall have the same immunity and exemption

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from liability for torts and negligence as Bibb County and the City of Macon, Georgia; and

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the officers, agents, and employees of the authority when in the performance of the work of

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the authority shall have the same immunity and exemption from liability for torts and

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negligence as the officers, agents, and employees of Bibb County and the City of Macon,

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Georgia, when in the performance of their public duties or the work of the city.

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SECTION 28.

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Tax-exempt status of the authority.

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The properties of the authority, both real and personal, are declared to be public properties

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used for the benefit and welfare of the people of the state and not for purposes of private or

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corporate benefit and income, and such properties and the authority shall be exempt from all

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taxes and special assessments of any municipality, county, or the state and any political

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subdivision thereof.

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SECTION 29.

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Effect on other governments.

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This Act shall not and does not in any way take from Bibb County or the City of Macon,

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Georgia, or any political subdivision or municipality the authority to own, operate, and

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maintain public facilities or to issue revenue bonds as provided by the revenue bond law.

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SECTION 30.

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Liberal construction of Act.

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This Act, being for the welfare of various political subdivisions and municipalities of the

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state and its inhabitants, shall be liberally construed to effect the purposes hereof.

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SECTION 31.

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Effective date.

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This Act shall become effective upon its approval by the Governor or upon its becoming law

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without such approval.

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SECTION 32.

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Repealer.

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