

House Bill 1271

By: Representatives Lane of the 167th, Atwood of the 179th, and Spencer of the 180th

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act creating the Brunswick-Glynn County Joint Water and Sewer Commission,
 2 approved April 19, 2006 (Ga. L. 2006, p. 3661), so as to provide for immunity for the
 3 commission and its officers, agents, and employees; to provide for changes to membership,
 4 appointment, election, terms, cooperation, quorum, salaries, and officers of the commission;
 5 to provide for notices and hearings to be conducted prior to any increase in rates, fees, tolls,
 6 or charges to customers for water or sewer system services; to provide for a performance
 7 audit or performance review; to provide for a referendum; to provide for submission of this
 8 Act to the United States Department of Justice for preclearance; to provide for related
 9 matters; to provide effective dates; to provide for contingent repeal; to repeal conflicting
 10 laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

PART I

SECTION 1-1.

14 An Act creating the Brunswick-Glynn County Joint Water and Sewer Commission, approved
 15 April 19, 2006 (Ga. L. 2006, p. 3661), is amended by revising Section 2 as follows:

"SECTION 2.

17 (a) There is hereby created a body corporate and politic, to be known as the
 18 Brunswick-Glynn County Joint Water and Sewer Commission, and by that name, style, and
 19 title said body may contract and be contracted with, sue and be sued, implead and be
 20 impleaded, complain and defend in all courts of law and equity, except that the commission
 21 and its officers, agents, and employees when in the performance of their public duties or
 22 work of the commission, shall in no event be liable for any torts or negligent acts and shall
 23 have immunity therefrom, nor shall the commission be vicariously liable for any torts
 24 committed by its officers, agents, and employees. The commission shall have perpetual

25 existence, and shall be deemed a governmental body within the meaning of the Georgia
 26 Revenue Bond Law, Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia
 27 Annotated, specifically under subparagraph (2)(C) of Code Section 36-82-61.

28 (b)(1) No person, firm, or corporation having a claim for money damages against the
 29 commission on account of injuries to any person or property shall bring any action
 30 against the commission for such injuries without first giving notice within six months of
 31 the happening of the event upon which a claim is predicated.

32 (2) The person, firm, or corporation shall present the claim in writing to the governing
 33 authority of the commission for adjustment, stating the time, place, and extent of the
 34 injury, as nearly as practicable, and the negligence which caused the injury. No action
 35 shall be entertained by the courts against the commission until the cause of action therein
 36 has first been presented to the governing authority of the commission for adjustment.

37 (3) The commission shall have 30 days from the presentation of the claim to consider
 38 and act upon the claim. Action by the commission, unless it results in the settlement
 39 thereof, shall in no sense be a bar to an action therefor in the courts.

40 (4) The running of the statute of limitations shall be suspended during the time that the
 41 demand for payment is pending before the commission without action on the part of the
 42 commission."

43 **SECTION 1-2.**

44 Said Act is further amended by adding after Section 7 two new sections to read as follows:

45 **"SECTION 7A.**

46 The commission shall not approve any increase in rates, fees, tolls, or charges to customers
 47 for water or sewer system services except after notices and hearings as required by this
 48 section. The commission shall conduct at least two public hearings within the territory of
 49 Glynn County prior to approving any such increase, with at least one hearing conducted
 50 at a location on the mainland and at least one hearing conducted during a different calendar
 51 week on St. Simons Island. Notice of such hearings, specifying the dates, times, locations,
 52 and subject matter thereof, shall be published in the legal organ of Glynn County at least
 53 once a week for two successive weeks, with the first such notice being published not less
 54 than 30 days in advance of the first such hearing, and shall be prominently displayed and
 55 posted on the commission's website. The notice shall also be a prominently displayed
 56 advertisement or news article or placed in that section of the newspaper where legal notices
 57 appear. The contents of such notice shall also be included at least once in bills for service
 58 to those persons who are water or sewer service customers of the commission, at least one
 59 and not more than two billing cycles prior to the date of the first hearing. The notices

60 published in the legal organ and included in customers' bills shall include a financial
 61 justification for any such proposed increase, with five-year projections of future operating
 62 revenues and expenses with and without such proposed increase, along with a history of
 63 the dates and amounts of any changes in customer rates, fees, tolls, or charges previously
 64 approved by the commission during the five-year period immediately preceding the
 65 effective date of the proposed increase.

66 **SECTION 7B.**

67 The commission shall provide for a continuing performance audit or performance review.
 68 The first of such audits or performance reviews shall be conducted according to this
 69 provision within one year after the effective date of this Act, and every four years
 70 thereafter. The commission shall contract with an outside auditor, consultant, or other
 71 provider for such performance audit or performance review. The performance audit or
 72 performance review contract shall:

- 73 (1) Include a goal of ensuring to the maximum extent possible that the commission is
 74 operating as efficiently and economically as possible; and
 75 (2) Provide for the issuance of periodic public recommendations, not less often than once
 76 every four years, for improvements in meeting the goal specified in paragraph (1) of this
 77 section.

78 The results of the performance audit or performance review shall be published on the
 79 commission website and shall be made available for inspection at the office of the
 80 commission within 60 days of the completion of such audit or review."

81 **PART II**

82 **SECTION 2-1.**

83 An Act creating the Brunswick-Glynn County Joint Water and Sewer Commission, approved
 84 April 19, 2006 (Ga. L. 2006, p. 3661), is amended by revising Section 4 as follows:

85 "SECTION 4.

86 (a) The commission is continued, but shall be constituted as provided in this Act. On and
 87 after January 1, 2013, the commission shall consist of seven members as provided for in
 88 this Act.

89 (b) The governing authorities of the county and the city shall each appoint one of their
 90 members to the commission. The initial term of the member appointed by the city and the
 91 member appointed by the county shall be for a period of one year beginning January 1,
 92 2013, and until their respective successors are selected and qualified, and all succeeding

93 terms shall be for a period of two years and until their respective successors are selected
94 and qualified, except that no member appointed to one of these two positions or their
95 successors in office shall serve beyond their term in office as a member of the respective
96 appointing body. There shall be no limit to the number of terms a person may serve as a
97 member of the commission.

98 (c) The current members of the commission on the effective date of this Act shall continue
99 to serve until the effective date of this Act and until their respective successors shall be
100 appointed and qualified.

101 (d) Five citizen members shall serve on the commission. The grand jury of Glynn County
102 shall select and name three citizens to serve on the commission as provided by this Act.
103 Citizen 1 and Citizen 3 appointed by the grand jury shall serve for a period of one year
104 beginning January 1, 2013, and until their respective successors are appointed and
105 qualified, and all succeeding terms shall be for a period of two years and until their
106 respective successors are appointed and qualified. Citizen 2 appointed by the grand jury
107 shall serve for a period of two years beginning January 1, 2013, and until his or her
108 successor is appointed and qualified, and all succeeding terms shall be for a period of two
109 years and until his or her successor is appointed and qualified. Successors in office to the
110 original three citizen members shall be selected in the same manner by the grand jury then
111 sitting. The grand jury shall seek applications from residents of the city or county and
112 select the citizen members from these applicants. The citizens shall be selected, if such
113 persons apply for commission membership, from individuals possessing specialized
114 engineering, finance or related business education or experience, including, but not limited
115 to, accounting, public relations, or other experience or education relating to the operation
116 of a water and sewer authority, industrial management, or related business.

117 (e) Within 30 days after the effective date of this Act, the grand jury shall cause to be
118 advertised citizen positions on the commission setting forth the qualifications and
119 application process. The grand jury shall set a date certain to receive the applications and
120 conduct interviews within 30 days of such advertisement. The grand jury shall accept
121 applications, conduct interviews, and verify applicants' information, and make selections
122 no later than 90 days after the initial advertisement. Prior to final membership selection,
123 the grand jury shall also set a date and time for public comment and the grand jury may
124 consider comments from private citizens at such public hearings. The first appointees shall
125 begin their terms on January 1, 2013, and thereafter such selections shall be made no later
126 than the second Monday of December and each appointee's term shall begin the following
127 January of each year.

128 (f) The two additional members of the commission, Citizen 4 and Citizen 5, shall be
129 elected by the qualified electors of the entire county at a special election to be conducted

130 in conjunction with the state-wide general election in 2012. Members shall be elected for
131 two-year terms of office and until their respective successors are elected and qualified.
132 Such members shall take office on January 1 following their election.

133 (g) Successors to the members elected under subsection (f) of this section shall be elected
134 at the state-wide general election next preceding the expiration of the term of office for
135 terms of two years and until their respective successors are elected and qualified. Such
136 successors to the members shall take office on January 1 following their election.

137 (h) Each citizen member of the commission shall have been a resident of the county for
138 at least 12 months prior to his or her appointment, shall be 21 years of age or older, and
139 shall be registered to vote in this state.

140 (i) In the event of a vacancy, with the exception of those appointed by the governing
141 authority of the county and city, a member's successor shall be appointed by the grand jury
142 of Glynn County.

143 (j) The commission may declare that any appointed member missing three consecutive
144 meetings of the commission has vacated his or her office. The commission may for good
145 cause shown excuse any absence of an individual member so that it does not count toward
146 this limit. If the commission declares an office vacated, it may request the county or the
147 city, or grand jury as appropriate, to name a successor to serve the balance of that former
148 member's term. Within 30 days of receiving such a request, the governing commission of
149 the county or the city or the grand jury shall appoint a successor. Members of the
150 commission shall be officers of the commission when performing the functions of those
151 offices and those members appointed from the city or county shall not be deemed to be
152 officers of the city or county.

153 (k) Except for those members appointed under subsection (b) of this section, all members
154 shall be paid \$500.00 per month and shall be reimbursed for their actual expenses
155 necessarily incurred in the performance of their duties, including mileage reimbursed at the
156 standard business mileage rate as determined by the Internal Revenue Service and adopted
157 by the commission.

158 (l) A quorum of the members of the commission shall be required to transact any business.
159 Five members of the commission shall constitute a quorum. Meetings of the commission
160 shall be conducted in accordance with *Robert's Rules of Order*.

161 (m) The commission shall elect a chairperson from its members to serve a one-year term.
162 There shall be no limit to the number of terms, consecutive or otherwise, that the
163 chairperson may serve."

164

PART III

165

SECTION 3-1.

166 An Act creating the Brunswick-Glynn County Joint Water and Sewer Commission, approved
167 April 19, 2006 (Ga. L. 2006, p. 3661), is amended by revising Section 4 as follows:

168

"SECTION 4.

169 (a) The commission is continued, but shall be constituted as provided in this Act. On and
170 after January 1, 2013, the commission shall consist of seven members as provided for in
171 this Act.

172 (b) The governing authorities of the county and the city shall each appoint one of their
173 members to the commission. The initial term of the member appointed by the city and the
174 member appointed by the county shall be for a period of one year beginning January 1,
175 2013, and until their respective successors are selected and qualified, and all succeeding
176 terms shall be for a period of two years and until their respective successors are selected
177 and qualified, except that no member appointed to one of these two positions or their
178 successors in office shall serve beyond their term in office as a member of the respective
179 appointing body. There shall be no limit to the number of terms a person may serve as a
180 member of the commission.

181 (c) The current members of the commission on the effective date of this Act shall continue
182 to serve until the effective date of this Act and until their respective successors shall be
183 appointed and qualified.

184 (d) The grand jury of Glynn County shall select and name five citizens to serve on the
185 commission as provided by this Act. Citizens 1, 2, and 3 appointed by the grand jury shall
186 serve for a period of one year beginning January 1, 2013, and until their respective
187 successors are appointed and qualified, and all succeeding terms shall be for a period of
188 two years and until their respective successors are appointed and qualified. Citizens 4 and
189 5 shall serve for a period of two years beginning January 1, 2013, and until their respective
190 successors are appointed and qualified, and all succeeding terms shall be for a period of
191 two years and until their respective successors are appointed and qualified. Successors in
192 office to the original five citizen members shall be selected in the same manner by the
193 grand jury then sitting. The grand jury shall seek applications from residents of the city or
194 county and select the citizen members from these applicants. Three of the citizens shall be
195 selected, if such persons apply for commission membership, from individuals possessing
196 specialized engineering, finance or related business education or experience, including, but
197 not limited to, accounting, public relations, or other experience or education relating to the
198 operation of a water and sewer authority, industrial management, or related business.

199 (e) Two of the citizens shall be selected by the grand jury from applicants that demonstrate
200 to the grand jury's satisfaction a desire to serve and have demonstrated through the
201 application and interview process sufficient ability to serve.

202 (f) Within 30 days after the effective date of this Act, the grand jury shall cause to be
203 advertised citizen positions on the commission setting forth the qualifications and
204 application process. The grand jury shall set a date certain to receive the applications and
205 conduct interviews within 30 days of such advertisement. The grand jury shall accept
206 applications, conduct interviews, and verify applicants' information, and make selections
207 no later than 90 days after the initial advertisement. Prior to final membership selection,
208 the grand jury shall also set a date and time for public comment and the grand jury may
209 consider comments from private citizens at such public hearings. The first appointees shall
210 begin their terms on January 1, 2013, and thereafter such selections shall be made no later
211 than the second Monday of December and each appointee's term shall begin the following
212 January of each year.

213 (g) Each citizen member of the commission shall have been a resident of the county for
214 at least 12 months prior to his or her appointment, shall be 21 years of age or older, and
215 shall be registered to vote in this state.

216 (h) In the event of a vacancy, with the exception of those appointed by the governing
217 authority of the county and the city, a member's successor shall be appointed by the grand
218 jury of Glynn County.

219 (i) The commission may declare that any appointed member missing three consecutive
220 meetings of the commission has vacated his or her office. The commission may for good
221 cause shown excuse any absence of an individual member so that it does not count toward
222 this limit. If the commission declares an office vacated, it may request the county or the
223 city, or grand jury as appropriate, to name a successor to serve the balance of that former
224 member's term. Within 30 days of receiving such a request, the governing commission of
225 the county or the city or the grand jury shall appoint a successor. Members of the
226 commission shall be officers of the commission when performing the functions of those
227 offices and those members appointed from the city or county shall not be deemed to be
228 officers of the city or county.

229 (j) Except for those members appointed under subsection (b) of this section, all members
230 shall be paid \$500.00 per month and shall be reimbursed for their actual expenses
231 necessarily incurred in the performance of their duties, including mileage reimbursed at the
232 standard business mileage rate as determined by the Internal Revenue Service and adopted
233 by the commission.

234 (k) A quorum of the members of the commission shall be required to transact any business.
 235 Five members of the commission shall constitute a quorum. Meetings of the commission
 236 shall be conducted in accordance with *Robert's Rules of Order*.

237 (l) The commission shall elect a chairperson from its members to serve a one-year term.
 238 There shall be no limit to the number of terms, consecutive or otherwise, that the
 239 chairperson may serve."

240 **PART IV**
 241 **SECTION 4-1.**

242 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
 243 superintendent of Glynn County shall call and conduct an election as provided in this section
 244 for the purpose of submitting this Act to the electors of all of Glynn County for approval or
 245 rejection. The election superintendent shall conduct the election on the date of the state-wide
 246 general primary in 2012 and shall issue the call and conduct that election as provided by
 247 general law. The election superintendent of Glynn County shall cause the date and purpose
 248 of the election to be published once a week for two weeks immediately preceding the date
 249 thereof in the official organ of Glynn County. The ballot shall have written or printed
 250 thereon the words:

251 "QUESTION NO. 1

252 () YES Shall the Act be approved which changes the membership of the
 253 () NO Brunswick-Glynn County Joint Water and Sewer Commission?

254 QUESTION NO. 2

255 If a majority of the votes cast on this question are in favor of changing the
 256 membership of the Brunswick-Glynn County Joint Water and Sewer
 257 Commission, select the method of selecting the seven citizen members which
 258 you favor by placing a check (✓) mark or (X) in the appropriate space below.
 259 Vote for only one of the options below:

260 OPTION 1

261 () A seven member commission, two of whom are appointed one each by the
 262 respective governing authorities of the county and city, and five citizen
 263 members, three of whom are selected by the grand jury of Glynn County and
 264 two of whom are elected by the qualified electors of the entire county.

OPTION 2

265
 266 () A seven member commission, two of whom are appointed one each by the
 267 respective governing authorities of the county and city, and five citizen
 268 members selected by the grand jury of Glynn County."

269 No voter shall vote for more than one of the options in Question No. 2. All persons desiring
 270 to vote for approval of changing the membership of the Brunswick-Glynn County Joint
 271 Water and Sewer Commission shall vote "Yes" on Question No. 1, and all persons desiring
 272 to vote against changing the membership of the Brunswick-Glynn County Joint Water and
 273 Sewer Commission shall vote "No" on Question No. 1. If more than one-half of the votes
 274 cast on Question No. 1 are for approval of changing the membership of the Brunswick-Glynn
 275 County Joint Water and Sewer Commission, then either Part II or Part III of this Act shall
 276 become effective as provided for in this section; otherwise, neither Part II nor Part III shall
 277 become effective and those portions of the Act shall be automatically repealed on the first
 278 day of January following that election date. If more than one-half of the votes cast on
 279 Question No. 1 are for approval of changing the membership of the Brunswick-Glynn
 280 County Joint Water and Sewer Commission and more than one-half of the votes cast on
 281 Question 2 are cast in favor of Option 1 or there is a tie vote between Option 1 and Option
 282 2, then Part II of this Act shall become effective on January 1, 2013, and Part III of this Act
 283 shall be automatically repealed on January 1, 2013. If more than one-half of the votes cast
 284 on Question No. 1 are for approval of changing the membership of the Brunswick-Glynn
 285 County Joint Water and Sewer Commission and more than one-half of the votes cast on
 286 Question No. 2 are in favor of Option 2, then Part III of this Act shall become effective on
 287 January 1, 2013, and Part II of this Act shall be automatically repealed on January 1, 2013.
 288 The expense of such election shall be borne by Glynn County. It shall be the duty of the
 289 election superintendent to certify the results thereof to the Secretary of State.

SECTION 4-2.

290
 291 The Brunswick-Glynn County Joint Water and Sewer Commission shall cause, through its
 292 legal counsel, this Act to be submitted for preclearance under Section 5 of the federal Voting
 293 Rights Act of 1965, as amended, within 45 days after the date on which this Act is approved
 294 by the Governor or otherwise becomes law without such approval.

SECTION 4-3.

295
 296 (a) Part I of this Act shall become effective upon its approval by the Governor or upon its
 297 becoming law without such approval.

298 (b) Except as otherwise provided for in Section 4-1 of this Act, the remaining sections of this
299 Act shall become effective upon its approval by the Governor or upon its becoming law
300 without such approval.

301

SECTION 4-4.

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