

House Bill 437

By: Representatives Jones of the 167th and Atwood of the 179th

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), as amended, particularly by an Act approved
3 April 11, 2012 (Ga. L. 2012, p. 5287), so as to provide for a short title name change; to
4 provide for nonpartisan election in conjunction with general primary; to provide for terms
5 of elected members; to provide for a quorum; to provide for public access to annual budget;
6 to provide for solicitation of donations; to provide for assistance to customers in financial
7 hardship; to provide for assistance to low-income customers; to provide for separate
8 accounting for certain donations and the expenditure of excess funds; to provide for notices
9 and hearings prior to any increase in water or waste-water rates; to repeal conflicting laws;
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 An Act creating the Brunswick-Glynn County Joint Water and Sewer Commission, approved
14 April 19, 2006 (Ga. L. 2006, p. 3661), as amended, particularly by an Act approved April 11,
15 2012 (Ga. L. 2012, p. 5287), is amended by revising Section 1 to read as follows:

16 style="text-align:center">"SECTION 1.

17 This Act shall be known and may be cited as the 'Brunswick-Glynn County Water and Sewer
18 Commission Act.'"

19 style="text-align:center">**SECTION 2.**

20 Said Act is further amended in Section 2 by revising subsection (a) as follows:

21 "(a) There is hereby created a body corporate and politic, to be known as the
22 Brunswick-Glynn County Water and Sewer Commission, and by that name, style, and title
23 said body may contract and be contracted with, sue and be sued, implead and be impleaded,
24 complain and defend in all courts of law and equity, except that the commission and its

25 officers, agents, and employees when in the performance of their public duties or work of
26 the commission, shall in no event be liable for any torts or negligent acts and shall have
27 immunity therefrom, nor shall the commission be vicariously liable for any torts committed
28 by its officers, agents, and employees. The commission shall have perpetual existence, and
29 shall be deemed a governmental body within the meaning of the Georgia Revenue Bond
30 Law, Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated,
31 specifically under subparagraph (2)(C) of Code Section 36-82-61."

32 **SECTION 3.**

33 Said Act is further amended in Section 3 by revising paragraph (1) as follows:

34 "(1) 'Commission' shall mean the Brunswick-Glynn County Water and Sewer
35 Commission created by Section 2 of this Act."

36 **SECTION 4.**

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

38 "SECTION 4.

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

42 (b) The governing authorities of the county and the city shall each appoint one of their
43 members to the commission. The initial term of the member appointed by the city and the
44 member appointed by the county shall be for a period of one year beginning January 1,
45 2013, and until their respective successors are selected and qualified, and all succeeding
46 terms shall be for a period of two years and until their respective successors are selected
47 and qualified, except that no member appointed to one of these two positions or their
48 successors in office shall serve beyond their term in office as a member of the respective
49 appointing body. There shall be no limit to the number of terms a person may serve as a
50 member of the commission.

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

54 (d) Five citizen members shall serve on the commission. The grand jury of Glynn County
55 shall select and name three citizens to serve on the commission as provided by this Act.
56 Citizen 1 and Citizen 3 appointed by the grand jury shall serve for a period of one year
57 beginning January 1, 2013, and until their respective successors are appointed and
58 qualified, and all succeeding terms shall be for a period of two years and until their

59 respective successors are appointed and qualified. Citizen 2 appointed by the grand jury
60 shall serve for a period of two years beginning January 1, 2013, and until his or her
61 successor is appointed and qualified, and all succeeding terms shall be for a period of two
62 years and until his or her successor is appointed and qualified. Successors in office to the
63 original three citizen members shall be selected in the same manner by the grand jury then
64 sitting. The grand jury shall seek applications from residents of the city or county and
65 select the citizen members from these applicants. The citizens shall be selected, if such
66 persons apply for commission membership, from individuals possessing specialized
67 engineering, finance, or related business education or experience, including, but not limited
68 to, accounting, public relations, or other experience or education relating to the operation
69 of a water and sewer authority, industrial management, or related business.

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

81 (f) The two additional members of the commission, Citizen 4 and Citizen 5, shall be
82 elected by the qualified electors of the entire county at a special election to be conducted
83 in conjunction with the state-wide general election in 2012. Members shall be elected for
84 two-year terms of office and until their respective successors are elected and qualified.
85 Such members shall take office on January 1 following their election.

86 (g) Successors to the members elected under subsection (f) of this section shall be elected
87 at the nonpartisan election to be held and conducted jointly with the general primary
88 election next preceding the expiration of the term of office for terms of two years and until
89 their respective successors are elected and qualified. Candidates shall be placed on the
90 nonpartisan portion of each ballot. A run-off primary shall be a continuation of the primary
91 election. Commencing with the 2016 elections held in conjunction with the general
92 primary election, the term of office of Citizen 4 will be for two years and the term of office
93 of Citizen 5 will be for four years. Successors in office will serve four-year terms and until
94 their respective successors are elected and qualified. Such successors to the members shall
95 take office on January 1 following their election.

- 96 (h) Each citizen member of the commission shall have been a resident of the county for
97 at least 12 months prior to his or her appointment, shall be 21 years of age or older, and
98 shall be registered to vote in this state.
- 99 (i) Any person desiring to serve in a position on the commission shall either become a
100 candidate for election or an applicant for appointment by the grand jury, but not both,
101 during any year in which a vacancy or vacancies are to be filled.
- 102 (j) In the event of a vacancy, with the exception of those appointed by the governing
103 authority of the county and city, a member's successor shall be appointed by the grand jury
104 of Glynn County.
- 105 (k) The commission may declare that any appointed member missing three consecutive
106 meetings of the commission has vacated his or her office. The commission may for good
107 cause shown excuse any absence of an individual member so that it does not count toward
108 this limit. If the commission declares an office vacated, it may request the county or the
109 city, or grand jury as appropriate, to name a successor to serve the balance of that former
110 member's term. Within 30 days of receiving such a request, the governing commission of
111 the county or the city or the grand jury shall appoint a successor. Members of the
112 commission shall be officers of the commission when performing the functions of those
113 offices and those members appointed from the city or county shall not be deemed to be
114 officers of the city or county.
- 115 (l) Except for those members appointed under subsection (b) of this section, all members
116 shall be paid \$500.00 per month and shall be reimbursed for their actual expenses
117 necessarily incurred in the performance of their duties, including mileage reimbursed at the
118 standard business mileage rate as determined by the Internal Revenue Service and adopted
119 by the commission.
- 120 (m) A quorum of the members of the commission shall be required to transact any
121 business. Four members of the commission shall constitute a quorum. Meetings of the
122 commission shall be conducted in accordance with *Robert's Rules of Order*.
- 123 (n) The commission shall elect a chairperson from its members to serve a one-year term.
124 There shall be no limit to the number of terms, consecutive or otherwise, that the
125 chairperson may serve."

126 **SECTION 5.**

127 Said Act is further amended by revising Section 7 as follows:

"SECTION 7.

128
129 After holding a public hearing regarding and prior to entering into an operational agreement
130 with the city and county to operate the unified system and subsequently entering into such
131 an agreement, the commission shall have the following powers and duties:

- 132 (1) To have a seal and to alter same at its pleasure;
- 133 (2) To operate a water and sewer system or systems including a unified water and sewer
134 system utilizing the systems and assets of both the county and the city water and sewer
135 systems and to provide water and sewer services to all citizens and customers in the
136 county and the city and to citizens and customers in either political subdivision. The
137 commission shall operate its system or systems in conformity with all applicable
138 regulations, licenses, and permits and shall be liable to pay any fines or assessments
139 resulting from failure to conform to the same;
- 140 (3) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of
141 real and personal property of every kind and character for its corporate purposes;
- 142 (4) To acquire real or personal property in its own name by purchase, lease, exchange,
143 gift, or otherwise on such terms and conditions and in such a manner as it may deem
144 proper, necessary, or convenient for its corporate purposes, and to use the same so long
145 as its corporate existence shall continue, and to lease or make contracts with respect to
146 the use of, or dispose of the same in any manner it deems to the best advantage of the
147 commission, and no property shall be acquired under the provisions of this Act upon
148 which any lien or other encumbrance exists unless at the time such property is so
149 acquired a sufficient sum of money shall be deposited in trust to pay and reduce the face
150 value of such lien or encumbrance;
- 151 (5) To appoint, select, and employ such officers, agents, and employees as shall be
152 necessary in the judgment of the commission to accomplish the purposes of the
153 commission, including accountants, auditors, attorneys, consulting engineers, and other
154 professionals; to fix their respective compensation; and to provide for pension and
155 retirement plans for these officers, agents, and employees. After the commission enters
156 into an agreement to operate the unified system, existing water and sewer employees of
157 the county and the city and former employees of the county who are employees of the
158 company operating the county's water and sewer system shall be offered employment
159 with the commission. The position offered to such persons and the terms of
160 compensation are entirely within the discretion of the commission;
- 161 (6) To formulate and adopt an annual operating budget of all its revenues and expenses
162 and, upon adoption, display it for viewing on the commission's website;
- 163 (7) To make contracts and leases and to execute all instruments necessary or convenient,
164 including contracts for construction of projects and leases of projects or contracts with

165 respect to the use of projects which it causes to be constructed, erected, or acquired. Any
166 and all persons, firms, and corporations and any and all political subdivisions,
167 departments, institutions, or agencies of the state are authorized to enter into contracts,
168 leases, or agreements with the commission upon such terms and for such purposes as they
169 deem advisable;

170 (8) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,
171 equip, operate, and manage projects, as defined in this Act and to pay the cost of the
172 project in whole or in part from the proceeds of revenue bonds of the commission or from
173 such proceeds and any grant or contribution from the United States of America or any
174 agency or instrumentality thereof or from the State of Georgia or any political
175 subdivision, agency, or instrumentality thereof;

176 (9) To borrow money for any of its corporate purposes and to issue revenue bonds
177 payable solely from funds pledged for that purpose and to provide for the payment of the
178 same and for the rights of the holders thereof;

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

183 (11) To enter into an operational agreement with the county and the city detailing the
184 power of the commission to operate the unified system and the rights of the county, the
185 city, and the commission during the period of such operation. The term of such
186 agreement shall not exceed 50 years;

187 (12) To be liable for payment of all charges and expenses of operating the unified system
188 and to receive all income from the operation of the unified system, except that the county
189 and the city shall continue to receive income necessary to retire any existing indebtedness
190 of their systems;

191 (13) To prescribe, fix, and collect rates, fees, tolls, or charges and to revise from time to
192 time and collect such rates, fees, tolls, or charges, provided that such rates, fees, tolls, or
193 charges shall be calculated to cover only the cost of providing services; to provide capital
194 to expand facilities; to maintain, replace, or expand existing facilities; to provide a
195 reasonable reserve for operations; to fund bond sinking funds; or to fund sinking funds
196 for other debt of the county or the city incurred to provide capital portions of their water
197 or sewer system. The commission shall not operate the unified system at a profit;

198 (14) To accept grants of money, materials, or property of any kind from the United States
199 of America or any agency or instrumentality thereof upon terms and conditions as the
200 United States of America or such agency or instrumentality may impose;

- 201 (15) To accept grants of money, materials, or property of any kind from the State of
202 Georgia or any agency or instrumentality or political subdivision thereof upon terms and
203 conditions as the State of Georgia or such agency or instrumentality or political
204 subdivision may impose;
- 205 (16) To accept grants of money, materials, or property of any kind from the city, the
206 county, or any agency or instrumentality thereof upon terms and conditions as the city,
207 the county, or such agency or instrumentality may impose;
- 208 (17) To accept grants of money, materials, or property of any kind from any other
209 source, private or public, provided that such grant or gift is not encumbered with any
210 terms or conditions;
- 211 (18) To solicit and accept donations, contributions, and gifts of money from any source
212 including, but not limited to, current customers for the following purposes:
- 213 (A) To provide assistance in bill paying to residential customers in times of financial
214 hardship (hereinafter 'Group 1');
- 215 (B) To provide assistance in bill paying to low-income residential customers
216 (hereinafter 'Group 2') as determined by a third-party administrator;
- 217 (C) To enable Group 1 and Group 2 customers to receive water and waste-water
218 services of the commission by whatever means necessary to effectuate efficiency and
219 retain integrity in the delivery system of such services including, but not limited to,
220 repair and replacement of the customer's infrastructure; and
- 221 (D) To obtain or maintain water or waste-water service for Group 1 and Group 2
222 customers who have been unable to do so.
- 223 (19) To create a separate interest-bearing account (hereinafter 'service fund') to
224 accomplish the purposes set forth in paragraph (18) of this section; interest earned on
225 moneys in the fund shall accrue to the benefit of the commission; distribution of the funds
226 may be through a state sponsored agency or through an independent entity selected by the
227 commission using a public bid process, and as provided for in paragraph (21) of this
228 section.
- 229 (20) To contribute to the service fund in such amounts as the commission deems to be
230 in the public interest.
- 231 (21) To utilize excess moneys from the service fund in low-income neighborhoods as
232 determined by the commission for the repair and replacement of public infrastructure and
233 appurtenances thereto; for purposes of this paragraph, 'excess moneys' means any
234 amounts remaining uncommitted in the service fund at the end of a fiscal year in excess
235 of \$3 million.
- 236 (22) To insure its interest and the interest of the county and the city or any other entity
237 with which it contracts in all assets leased or utilized by it; and

238 (23) To do all things necessary or convenient to carry out the powers and duties
239 expressly given in this Act."

240 **SECTION 6.**

241 Said Act is further amended by revising Section 7A as follows:

242 "SECTION 7A.

243 The commission shall not approve any increase in the variable rates to customers for water
244 or sewer system services except after notices and hearings as required by this section. The
245 commission shall conduct two public hearings within the territory of Glynn County prior to
246 approving any such increase, with one hearing conducted at a location on the mainland and
247 one hearing conducted on Saint Simons Island. Notice of such hearings, specifying the dates,
248 times, locations, and subject matter thereof, shall be published in the legal organ of Glynn
249 County not more than 20 days or less than 10 days prior to the date of the hearings and
250 posted on the commission's website."

251 **SECTION 7.**

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