

House Bill 1114

By: Representatives Jones of the 167<sup>th</sup> and Atwood of the 179<sup>th</sup>

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 immunity and exemption from  
4 liability for the commission; to change provisions relating to the terms of office,  
5 appointment, and election procedures, including nonpartisan elections, of members of the  
6 commission; to provide for notices and hearings regarding stipends of members of the  
7 commission; to require display of the commission's operating budget on the commission's  
8 website; to authorize enforcement of ordinances; to provide for solicitation and acceptance  
9 of donations and administration of same, including separate accounting and expenditure of  
10 excess funds; to provide for assistance to customers in financial hardship and low-income  
11 customers; to change procedures regarding the setting of customer rates; to provide for  
12 related matters; to repeal conflicting laws; and for other purposes.

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

14 **SECTION 1.**

15 An Act creating the Brunswick-Glynn County Joint Water and Sewer Commission, approved  
16 April 19, 2006 (Ga. L. 2006, p. 3661), as amended, particularly by an Act approved April 11,  
17 2012 (Ga. L. 2012, p. 5287), is amended by revising Section 2 as follows:

18 **"SECTION 2.**

19 There is hereby created a body corporate and politic, to be known as the Brunswick-Glynn  
20 County Water and Sewer Commission, and by that name, style, and title said body may  
21 contract and be contracted with, sue and be sued, implead and be impleaded, complain and  
22 defend in all courts of law and equity, except that the commission and its officers, agents,  
23 and employees when in the performance of their public duties or work of the commission,  
24 shall in no event be liable for any torts or negligent acts and shall have the same immunity  
25 and exemption from liability for torts and negligence as Glynn County and its County

26 Commissioners, nor shall the commission be vicariously liable for any torts committed by  
27 its officers, agents, and employees. The commission shall have perpetual existence, and  
28 shall be deemed a governmental body within the meaning of the Georgia Revenue Bond  
29 Law, Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated,  
30 specifically under subparagraph (2)(C) of Code Section 36-82-61."

31 **SECTION 2.**

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

33 "SECTION 4.

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

37 (b) The governing authorities of the county and the city shall each appoint one of their  
38 members to the commission. The initial term of the member appointed by the city and the  
39 member appointed by the county shall be for a period of one year beginning January 1,  
40 2013, and until their respective successors are selected and qualified, and all succeeding  
41 terms shall be for a period of two years and until their respective successors are selected  
42 and qualified, except that no member appointed to one of these two positions or their  
43 successors in office shall serve beyond their term in office as a member of the respective  
44 appointing body. There shall be no limit to the number of terms a person may serve as a  
45 member of the commission.

46 (c) Those persons serving as members of the commission on January 1, 2016, and any  
47 person filling a vacancy in such office shall continue to serve the remainder of their terms  
48 and until their respective successors shall be appointed and qualified.

49 (d) Five citizen members shall serve on the commission. The grand jury of Glynn County  
50 shall select and name three citizens to serve on the commission as provided by this Act.  
51 Citizen 1 and Citizen 3 appointed by the grand jury shall serve for a period of one year  
52 beginning January 1, 2013, and until their respective successors are appointed and  
53 qualified. Succeeding terms shall be for a period of two years and until their respective  
54 successors are appointed and qualified. Beginning January 1, 2018, Citizen 1 appointed  
55 by the grand jury shall serve for a period of four years and until his or her successor is  
56 appointed and qualified. Succeeding terms for Citizen 1 shall be for a period of four years  
57 and until his or her successor is appointed and qualified. Citizen 2 appointed by the grand  
58 jury shall serve for a period of two years beginning January 1, 2013, and until his or her  
59 successor is appointed and qualified. Succeeding terms for Citizen 2 shall be for a period  
60 of two years and until his or her successor is appointed and qualified. Beginning January

61 1, 2017, Citizen 2 appointed by the grand jury shall serve for a period of four years and  
62 until his or her successor is appointed and qualified. Succeeding terms for Citizen 2 shall  
63 be for a period of four years and until his or her successor is appointed and qualified.  
64 Beginning January 1, 2020, Citizen 3 appointed by the grand jury shall serve for a period  
65 of four years and until his or her successor is appointed and qualified. Succeeding terms  
66 for Citizen 3 shall be for a period of four years and until his or her successor is appointed  
67 and qualified. All grand jury appointments taking office on or after January 1, 2017, shall  
68 serve terms of four years and until his or her successor is appointed and qualified.  
69 Successors in office to the original three citizen members shall be selected in the same  
70 manner by the grand jury then sitting. The grand jury shall seek applications from  
71 residents of the city or county and select the citizen members from these applicants. The  
72 citizens shall be selected, if such persons apply for commission membership, from  
73 individuals possessing specialized engineering, finance, or related business education or  
74 experience, including, but not limited to, accounting, public relations, or other experience  
75 or education relating to the operation of a water and sewer authority, industrial  
76 management, or related business.

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

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

93 (g) Successors to the members elected under subsection (f) of this section shall be elected  
94 at the general primary election next preceding the expiration of the term of office for terms  
95 of two years and until their respective successors are elected and qualified. A run-off  
96 primary shall be a continuation of the primary election. Commencing with the 2016  
97 elections held in conjunction with the general primary election, the term of office of

98 Citizen 4 will be for two years commencing on January 1, 2017, and the term of office of  
99 Citizen 5 will be for four years commencing on January 1, 2017. Thereafter, successors  
100 in office to Citizen 4 and Citizen 5 will serve four-year terms and until their respective  
101 successors are elected and qualified. Such successors to Citizen 4 and Citizen 5 shall take  
102 office on January 1 following their election.

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

106 (i) Any person desiring to serve in a position on the commission shall either become a  
107 candidate for election or an applicant for appointment by the grand jury, but not both,  
108 during any year in which a vacancy or vacancies are to be filled.

109 (j) In the event of a vacancy, with the exception of those appointed by the governing  
110 authority of the county and city, a member's successor shall be appointed by the grand jury  
111 of Glynn County.

112 (k) The commission may declare that any appointed member missing three consecutive  
113 meetings of the commission has vacated his or her office. The commission may for good  
114 cause shown excuse any absence of an individual member so that it does not count toward  
115 this limit. If the commission declares an office vacated, it may request the county or the  
116 city, or grand jury as appropriate, to name a successor to serve the balance of that former  
117 member's term. Within 30 days of receiving such a request, the governing commission of  
118 the county or the city or the grand jury shall appoint a successor. Members of the  
119 commission shall be officers of the commission when performing the functions of those  
120 offices and those members appointed from the city or county shall not be deemed to be  
121 officers of the city or county.

122 (l) Except for those members appointed under subsection (b) of this section, all members  
123 shall be paid a monthly stipend of \$500.00 and shall be reimbursed for their actual  
124 expenses necessarily incurred in the performance of their duties, including mileage  
125 reimbursed at the standard business mileage rate as determined by the Internal Revenue  
126 Service and adopted by the commission. Commencing on January 1, 2016, the commission  
127 shall evaluate the appropriateness of the commissioners' stipends and expense  
128 reimbursement rates. Following this evaluation, the commission is authorized to fix the  
129 stipends and expenses of the commissioners, except those members appointed under  
130 subsection (b) of this section, at any properly noticed, regularly scheduled commission  
131 meeting following the notices and public hearing outlined in this section, and subject to the  
132 following conditions:

- 133 (1) Any change in stipend or expense reimbursements shall not be effective until the first  
 134 day of January of the year following the next general election held after the date on which  
 135 the action to change the stipend and expense reimbursement rates was taken;
- 136 (2) Any increase in stipend, salary, and expense reimbursement rates pursuant to this  
 137 subsection shall not be effective until approved by local act of the General Assembly;
- 138 (3) The commission shall take no action to change the stipend or expense reimbursement  
 139 rates of commissioners until notice of intent to change stipend and expense  
 140 reimbursement rates and the fiscal impact of such action has been published in a  
 141 newspaper designated as the legal organ of the county at least once a week for three  
 142 consecutive weeks immediately preceding the public hearing outlined in this section;
- 143 (4) The commission shall conduct a public hearing within the territory of Glynn County  
 144 prior to approving any such change in stipend and expense reimbursement rates;
- 145 (5) Notice of the public hearing required by this section shall specify the date, time,  
 146 location, and subject matter thereof, and be published along with the notice of intent to  
 147 change stipend and expense reimbursement rates in a newspaper designated as the legal  
 148 organ of the county at least once a week for three consecutive weeks immediately  
 149 preceding the public hearing; and
- 150 (6) Action to approve any increase in stipend and expense reimbursement rates shall not  
 151 be taken during the period of time beginning with the date that candidates for election as  
 152 members of the commission may first qualify as such candidates and ending with the first  
 153 day of January following the date of qualification.
- 154 (m) A quorum of the members of the commission shall be required to transact any  
 155 business. Five members of the commission shall constitute a quorum. Meetings of the  
 156 commission shall be conducted in accordance with *Robert's Rules of Order*.
- 157 (n) The commission shall elect a chairperson from its members to serve a one-year term.  
 158 There shall be no limit to the number of terms, consecutive or otherwise, that the  
 159 chairperson may serve."

160 **SECTION 3.**

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

162 "SECTION 7.

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

- 166 (1) To have a seal and to alter same at its pleasure;

- 167 (2) To operate a water and sewer system or systems including a unified water and sewer  
168 system utilizing the systems and assets of both the county and the city water and sewer  
169 systems and to provide water and sewer services to all citizens and customers in the  
170 county and the city and to citizens and customers in either political subdivision. The  
171 commission shall operate its system or systems in conformity with all applicable  
172 regulations, licenses, and permits and shall be liable to pay any fines or assessments  
173 resulting from failure to conform to the same;
- 174 (3) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of  
175 real and personal property of every kind and character for its corporate purposes;
- 176 (4) To acquire real or personal property in its own name by purchase, lease, exchange,  
177 gift, or otherwise on such terms and conditions and in such a manner as it may deem  
178 proper, necessary, or convenient for its corporate purposes, and to use the same so long  
179 as its corporate existence shall continue, and to lease or make contracts with respect to  
180 the use of, or dispose of the same in any manner it deems to the best advantage of the  
181 commission, and no property shall be acquired under the provisions of this Act upon  
182 which any lien or other encumbrance exists unless at the time such property is so  
183 acquired a sufficient sum of money shall be deposited in trust to pay and reduce the face  
184 value of such lien or encumbrance;
- 185 (5) To appoint, select, and employ such officers, agents, and employees as shall be  
186 necessary in the judgment of the commission to accomplish the purposes of the  
187 commission, including accountants, auditors, attorneys, consulting engineers, and other  
188 professionals; to fix their respective compensation; and to provide for pension and  
189 retirement plans for these officers, agents, and employees. After the commission enters  
190 into an agreement to operate the unified system, existing water and sewer employees of  
191 the county and the city and former employees of the county who are employees of the  
192 company operating the county's water and sewer system shall be offered employment  
193 with the commission. The position offered to such persons and the terms of  
194 compensation are entirely within the discretion of the commission;
- 195 (6) To formulate and adopt an annual operating budget of all its revenues and expenses  
196 and, upon adoption, display it for viewing on the commission's website;
- 197 (7) To make contracts and leases and to execute all instruments necessary or convenient,  
198 including contracts for construction of projects and leases of projects or contracts with  
199 respect to the use of projects which it causes to be constructed, erected, or acquired. Any  
200 and all persons, firms, and corporations and any and all political subdivisions,  
201 departments, institutions, or agencies of the state are authorized to enter into contracts,  
202 leases, or agreements with the commission upon such terms and for such purposes as they  
203 deem advisable;

- 204 (8) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,  
205 equip, operate, and manage projects, as defined in this Act and to pay the cost of the  
206 project in whole or in part from the proceeds of revenue bonds of the commission or from  
207 such proceeds and any grant or contribution from the United States of America or any  
208 agency or instrumentality thereof or from the State of Georgia or any political  
209 subdivision, agency, or instrumentality thereof;
- 210 (9) To borrow money for any of its corporate purposes and to issue revenue bonds  
211 payable solely from funds pledged for that purpose and to provide for the payment of the  
212 same and for the rights of the holders thereof;
- 213 (10) To exercise any power usually possessed by private corporations performing similar  
214 functions, including the power to make short-term loans and approve, execute, and  
215 deliver appropriate evidence of such indebtedness, provided no such power is in conflict  
216 with the Constitution or general laws of this state;
- 217 (11) To enter into an operational agreement with the county and the city detailing the  
218 power of the commission to operate the unified system and the rights of the county, the  
219 city, and the commission during the period of such operation. The term of such  
220 agreement shall not exceed 50 years;
- 221 (12) To be liable for payment of all charges and expenses of operating the unified system  
222 and to receive all income from the operation of the unified system, except that the county  
223 and the city shall continue to receive income necessary to retire any existing indebtedness  
224 of their systems;
- 225 (13) To prescribe, fix, and collect rates, fees, tolls, charges, or penalties, and to revise  
226 from time to time and collect such rates, fees, tolls, charges, or penalties provided that  
227 such rates, fees, tolls, charges, or penalties shall be calculated to cover only the cost of  
228 providing services; to provide capital to expand facilities; to maintain, replace, or expand  
229 existing facilities; to provide a reasonable reserve for operations; to fund bond sinking  
230 funds; or to fund sinking funds for other debt of the county or the city incurred to provide  
231 capital portions of their water or sewer system; to enforce the City of Brunswick Water  
232 and Sewer Ordinances and Glynn County Water and Sewer Ordinances as outlined in  
233 such ordinances. The commission shall not operate the unified system at a profit;
- 234 (14) To accept grants of money, materials, or property of any kind from the United States  
235 of America or any agency or instrumentality thereof upon terms and conditions as the  
236 United States of America or such agency or instrumentality may impose;
- 237 (15) To accept grants of money, materials, or property of any kind from the State of  
238 Georgia or any agency or instrumentality or political subdivision thereof upon terms and  
239 conditions as the State of Georgia or such agency or instrumentality or political  
240 subdivision may impose;

- 241 (16) To accept grants of money, materials, or property of any kind from the city, the  
242 county, or any agency or instrumentality thereof upon terms and conditions as the city,  
243 the county, or such agency or instrumentality may impose;
- 244 (17) To accept grants of money, materials, or property of any kind from any other  
245 source, private or public, provided that such grant or gift is not encumbered with any  
246 terms or conditions;
- 247 (18) To solicit and accept donations, contributions, and gifts of money from any source  
248 including, but not limited to, current customers for the following purposes:
- 249 (A) To provide assistance in bill paying to residential customers in times of financial  
250 hardship (hereinafter 'Group 1') as determined by a third-party administrator;
- 251 (B) To provide assistance in bill paying to low-income residential customers  
252 (hereinafter 'Group 2') as determined by a third-party administrator;
- 253 (C) To enable Group 1 and Group 2 customers to receive water and waste-water  
254 services of the commission by whatever means necessary to effectuate efficiency and  
255 retain integrity in the delivery system of such services, including, but not limited to,  
256 repair and replacement of the customer's infrastructure; and
- 257 (D) To obtain or maintain water or waste-water service for Group 1 and Group 2  
258 customers who have been unable to do so;
- 259 (19) To create a separate interest-bearing account (hereinafter 'service fund') to  
260 accomplish the purposes set forth in paragraph (18) of this section; interest earned on  
261 moneys in the fund shall accrue to the benefit of the commission; distribution of the funds  
262 may be through a state sponsored agency or through an independent entity selected by the  
263 commission using a public bid process, and as provided for in paragraph (21) of this  
264 section;
- 265 (20) To contribute to the service fund in such amounts as the commission deems to be  
266 in the public interest;
- 267 (21) To utilize excess moneys from the service fund in low-income neighborhoods as  
268 determined by the commission for the repair and replacement of public infrastructure and  
269 appurtenances thereto; for purposes of this paragraph, 'excess moneys' means any  
270 amounts remaining uncommitted in the service fund at the end of a fiscal year in excess  
271 of \$3 million;
- 272 (22) To insure its interest and the interest of the county and the city or any other entity  
273 with which it contracts in all assets leased or utilized by it; and
- 274 (23) To do all things necessary or convenient to carry out the powers and duties  
275 expressly given in this Act."

276 **SECTION 4.**

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

278 **"SECTION 7A.**

279 The commission shall not approve any increase in the variable rates to customers for water  
280 or sewer system services except after notices and hearings as required by this section. The  
281 commission shall conduct two public hearings within the territory of Glynn County prior  
282 to approving any such increase, with one hearing conducted at a location on the mainland  
283 and one hearing conducted on Saint Simons Island. Notice of such hearings, specifying the  
284 dates, times, locations, and subject matter thereof, shall be published in the legal organ of  
285 Glynn County not more than 20 days or less than ten days prior to the date of the hearings  
286 and posted on the commission's website. The notice shall also be a prominently displayed  
287 advertisement or news article or placed in that section of the newspaper where legal notices  
288 appear. The contents of such notice shall also be included at least once in bills for service  
289 to those persons who are water or sewer service customers of the commission, at least one  
290 and not more than two billing cycles prior to the date of the first hearing. The notices  
291 published in the legal organ and included in customers' bills shall include a financial  
292 justification for any such proposed increase, with five-year projections of future operating  
293 revenues and expenses with and without such proposed increase, along with a history of  
294 the dates and amounts of any changes in customer rates, fees, tolls, or other charges  
295 previously approved by the commission during the five-year period immediately preceding  
296 the effective date of the proposed increase."

297 **SECTION 5.**

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