

House Bill 762

By: Representatives Mainor of the 56th, Thomas of the 65th, Evans of the 57th, Roberts of the 52nd, Moore of the 95th, and others

A BILL TO BE ENTITLED
AN ACT

1 To create the Fulton Technology and Energy Enhancement Authority; to provide a statement
2 of legislative findings; to provide for a short title; to define certain terms; to provide for the
3 appointment of members of the authority; to provide for quorums and filling of vacancies;
4 to provide for a legislative overview committee; to provide for dissolution of the authority
5 upon certain conditions; to confer powers upon the authority; to provide for purpose and
6 scope of operations of the authority; to provide for definitions; to authorize the issuance of
7 revenue bonds of the authority; to fix and provide the venue and jurisdiction of actions
8 relating to any provisions of this Act; to provide for moneys received and trust funds; to
9 provide for tort immunity; to provide for tax exemption, rates, charges, and revenues; to
10 provide for effect on other governments; to provide for construction of this Act and
11 severability; to provide for related matters; to provide for an effective date; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 762

- 1 -

SECTION 1.

Short title.

This Act shall be known and may be cited as the "Fulton Technology and Energy Enhancement Authority."

SECTION 2.

Legislative findings.

(1) The General Assembly finds that while the Fulton County is a world renowned center of technological innovation, pockets exist throughout the county where technological and energy resources are extremely lacking. These deficiencies hinder the development or redevelopment of these pockets and lock the residents of these pockets into poverty by denying them the opportunity for prosperity and great wealth like other areas of the county.

(2) While agencies and programs now exist for the purposes of commercial development, elimination of blight, community improvement, improving education and workforce development resources, and the alleviation of poverty, none of those programs are designed to provide specific assistance in improving the technological and energy resources and reducing the energy burden of residents in these pockets.

(3) It is the intent of the General Assembly in creating the Fulton Technology and Energy Enhancement Authority to establish an entity capable of identifying, targeting, and alleviating the specific elements relating to the underdevelopment of technological resources and energy burdens which are causing poverty, increased unemployment rates, and statistics comparable to failing school rates and underdevelopment in these pockets and develop programs to address them.

37 (4) It is further the purpose of the authority to significantly reduce poverty in the
38 communities west of the main campus of the Georgia Institute of Technology by
39 simultaneously creating jobs in the nontraditional trades of technology and energy.

40 **SECTION 3.**

41 Fulton Technology and Energy Enhancement Authority.

42 (a) There is created a public body corporate and politic to be known as the "Fulton
43 Technology and Energy Enhancement Authority," which shall be deemed to be a political
44 subdivision of the state and a public corporation, and by that name, style, and title said
45 body may contract and be contracted with, sue and be sued, implead and be impleaded, and
46 complain and defend in all courts of law and equity.

47 (b) The authority shall be governed by a board consisting of seven members. Board
48 members shall be appointed as follows:

49 (1) One member appointed by the Development Authority of Fulton County from among
50 the membership of such development authority;

51 (2) One member appointed by the chairperson of the Fulton County Board of
52 Commissioners who shall be nominated by the Partnership for Inclusive Innovation at the
53 Georgia Institute of Technology;

54 (3) One member appointed by the Atlanta Regional Commission who has a background
55 in finance and investment;

56 (4) One member appointed by the Board of Directors of MARTA;

57 (5) One member appointed by the chairperson of the Fulton County Board of
58 Commissioners who has a background in economic development from a list of
59 nominations provided by the Fulton County Board of Commissioners;

60 (6) One member appointed by the chairperson of the Fulton County Board of
61 Commissioners who has a background in renewable energy and sustainability from a list
62 of nominations provided by the Fulton County Board of Commissioners; and

63 (7) One member appointed by the other members of the authority from a list of nominees
64 provided by the members of the General Assembly whose districts include all of the area
65 of operation.

66 (c) In addition to the voting members provided for in subsection (b) of this section, for the
67 initial four years of the operation of the authority, each member of the General Assembly
68 whose districts include all or part of the area of operation shall serve as ex officio
69 nonvoting members of the authority's board.

70 (d) The authority shall elect from its members a chairperson, a vice chairperson, a
71 secretary, and a treasurer or a secretary-treasurer. All officers shall be voting members.

72 (e) A majority of the members shall constitute a quorum, and any action may be taken by
73 the authority upon the affirmative vote of a majority of a quorum of the members. No
74 vacancy on the authority shall impair the right of the quorum to exercise all of the rights
75 and perform all of the duties of the authority.

76 (f) The board members shall select a chairperson from among their membership.

77 (g) Members shall serve terms of four years. Vacancies on the board shall be filed by the
78 appointing authority appointing a new member to serve out the remainder of the unexpired
79 term.

80 (h)(1) There is created a Fulton Technology and Energy Enhancement Authority
81 Overview Committee. The committee shall consist of each member of the General
82 Assembly whose districts include all or part of the area of operation, one additional
83 member appointed by the Speaker of the House of Representatives, and one additional
84 member appointed by the President of the Senate.

85 (2) Members of the committee shall be appointed during the first 30 days of each regular
86 legislative session which is held immediately following the election of members of the

87 General Assembly; provided, however, that an appointment to fill any vacancy on the
88 committee may be made at any time.

89 (3) The Speaker of the House of Representatives shall designate one of the committee
90 members who is a member of the House of Representatives as cochairperson of the
91 committee. The President of the Senate shall designate one of the committee members
92 who is a member of the Senate as cochairperson of the committee. The members
93 designated as cochairpersons shall serve for terms as such officers concurrent with their
94 terms as members of the committee. Other than the cochairpersons provided for in this
95 paragraph, the committee shall provide for its own organization.

96 (4) At the end of each fiscal year, the authority shall provide the overview committee
97 created by this subsection with a detailed report of all activities the authority has
98 undertaken in the preceding year and a report on progress the authority has achieved in
99 accomplishing its designated purposes and goals.

100 (i) The authority shall stand dissolved upon the area of operation no longer being deemed
101 a high energy burden area by the authority, high school graduation rates for residents of the
102 area of operation is 90 percent of the graduation rate of the high school operated by an
103 independent school system in the county with the highest graduation rate, no more than 20
104 percent of the residents of the area of operation live below the national poverty level, and
105 the reading level of third grade students is at least 85 percent of the countywide average
106 reading level for such students..

107 **SECTION 4.**

108 Definitions.

109 As used in this Act, the term:

110 (1) "Area of operation" means any part of the Fulton County on July 1, 2021, that is
111 within a ZIP Code, as defined by the United States Postal Service that:

- 112 (A) Has an energy burden 30 percent higher than the average energy burden of the
113 county;
- 114 (B) Where the high schools serving the area have graduation rates that are in the
115 bottom quarter of all high schools in the county when ranked from highest to lowest
116 graduation rate;
- 117 (C) When all ZIP Codes in the county are ranked by their poverty rate, is in the top ten
118 percent of such ranking; and
- 119 (D) Where the reading level of third grade students is at least 85 percent of the
120 countywide average reading level for such students.
- 121 (2) "Authority" means the Fulton Technology and Energy Enhancement Authority
122 created by this Act.
- 123 (3) "Board" means the board of the Fulton Technology and Energy Enhancement
124 Authority.
- 125 (4) "Costs of the project" means and embraces the cost of construction; the cost of all
126 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
127 equipment; financing charges; interest prior to and during construction and for six months
128 after completion of construction; the cost of engineering, architectural, fiscal agents'
129 expenses, legal expenses, plans and specifications, and other expenses necessary or
130 incidental to determining the feasibility or practicability of the project; administrative
131 expenses and such other expenses as may be necessary or incidental to the financing
132 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
133 add to, extend, improve, equip, operate, and maintain the project.
- 134 (5) "County" means Fulton County, Georgia.
- 135 (6) "Project" means all buildings, facilities, and equipment authorized by the Revenue
136 Bond Law and deemed by the board as necessary or convenient for the efficient operation
137 the authority or in carrying out the objects of this Act.

138 (7) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the
139 "Revenue Bond Law."

140 (8) "Revenue bonds" means revenue bonds authorized to be issued pursuant to the
141 Revenue Bond Law.

142 (9) "Self-liquidating" means any project from which the revenues and earnings to be
143 derived by the authority therefrom, including, but not limited to, any contractual
144 payments with governmental or private entities, and all properties used, leased, and sold
145 in connection herewith, together with any grants, will be sufficient to pay the costs of
146 operating, maintaining, and repairing the project and to pay the principal and interest on
147 the revenue bonds or other obligations which may be issued for the purpose of paying the
148 costs of the project.

149 (10) "Technology or energy development project" means a project developed by the
150 authority to improve the business, commercial, and residential technological or energy
151 infrastructure in the area of operation. Such project shall be designed according to the
152 specific problems and needs of the area addressed and may, without limitation, be
153 designed to eliminate blight, encourage the establishment or growth of commercial or
154 residential endeavors, or improve the quality of life in such area through the creation of
155 affordable energy facilities and programs.

156 **SECTION 5.**

157 Powers.

158 The authority shall have the power:

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

160 (2) To accept loans or grants of money or materials or property of any kind from the
161 United States of America or any agency or instrumentality thereof, upon such terms and

162 conditions as the United States of America or such agency or instrumentality may
163 require;

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

168 (4) To accept loans or grants of money or materials or property of any kind from private
169 corporations, individuals, and entities, upon such terms and conditions as such private
170 corporations, individuals, and entities may require;

171 (5) To administer funds under its control so as to engage in technology or energy
172 development projects;

173 (6) To acquire by purchase, lease, gift, or otherwise, and to hold, operate, maintain,
174 lease, and dispose of real and personal property of every kind and character for its
175 corporate purposes;

176 (7) To coordinate the activities of federal, state, local, and private entities to pursue
177 technology or energy projects;

178 (8) To contract for the construction of renewable energy infrastructure and buildings and
179 facilities, including but not limited to green buildings or facilities, and to use, sell, or
180 lease such infrastructure, buildings, products, and facilities to accomplish the purposes
181 of the authority;

182 (9) To acquire in its own name by purchase, on such terms and conditions and in such
183 manner as it may deem proper, property for public use, real property or rights or
184 easements therein, or franchises necessary or convenient for its corporate purposes, and
185 to use the same so long as its corporate existence shall continue, and to lease or make
186 contracts with respect to the use of or dispose of the same in any manner it deems to the
187 best advantage of the authority, and no property shall be acquired under the provisions
188 of this Act upon which any lien or encumbrance exists, unless at the time such property

189 is so acquired a sufficient sum of money is to be deposited in trust to pay and redeem the
190 fair value of such lien or encumbrances;

191 (10) To appoint, select, and employ officers, agents, and employees, including
192 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
193 their respective compensations;

194 (11) To execute contracts, leases, installment sale agreements, and other agreements and
195 instruments necessary or convenient in connection with the acquisition, construction,
196 addition, extension, improvement, equipping, operation, or maintenance of a project; and
197 any and all persons, firms, corporations, local governments, and institutions of higher
198 education are authorized to enter into contracts, leases, installment sale agreements, and
199 other agreements or instruments with the authority upon such terms and for such purposes
200 as they deem advisable and as they are authorized by law;

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

203 (13) To pay the costs of the project with the proceeds of revenue bonds or other
204 obligations issued by the authority or from any grant or contribution from the United
205 States of America or any agency or instrumentality thereof or from the state or any
206 agency or instrumentality or other political subdivision thereof or from any other source
207 whatsoever;

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

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

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

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SECTION 6.

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Meetings and public hearings.

217 The board shall meet at the call of the chairperson. In addition, the board shall hold quarterly
218 public hearings in the area of operation to receive public comments relating to the needs of
219 the community and possible ways to address such needs. The board shall consider, but shall
220 not be bound by, such comments and suggestions.

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SECTION 7.

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Revenue bonds.

223 The authority, or any authority or body which has or which may in the future succeed to the
224 powers, duties, and liabilities vested in the authority created by this Act, shall have power
225 and is authorized, pursuant to the Revenue Bond Law, to provide by resolution for the
226 issuance of revenue bonds of the authority for the purpose of paying all or any part of the
227 costs of a project and for the purpose of refunding revenue bonds or other obligations
228 previously issued. Revenue bonds shall be undertaken, issued, priced, validated, sold, paid,
229 redeemed, refunded, secured, and replaced in accordance with the provisions of the Revenue
230 Bond Law.

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SECTION 8.

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Revenue bonds; conditions precedent to issuance.

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The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the resolution, the authority shall determine that the project financed with the proceeds of such revenue bonds is self-liquidating. Revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and things which are specified or required by this Act. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular, special, or adjourned meeting of the authority by a majority of its members present and voting.

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SECTION 9.

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Credit not pledged.

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Revenue bonds of the authority shall not be deemed to constitute a debt of the county or the State of Georgia, nor a pledge of the faith and credit of this state or such county, but such revenue bonds shall be payable solely from the fund hereinafter provided for. The issuance of such revenue bonds shall not directly, indirectly, or contingently obligate this state or such county to levy or pledge any form of taxation whatsoever for payment of such revenue bonds or to make any appropriation for their payment, and all such revenue bonds shall contain recitals on their face covering substantially the foregoing provisions of this section.

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SECTION 10.

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Trust indenture as security.

253 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
254 indenture by and between the authority and a corporate trustee, which may be any trust
255 company or bank having the powers of a trust company within or without this state. Either
256 the resolution providing for the issuance of the revenue bonds or such trust indenture may
257 contain such provisions for protecting and enforcing the rights and remedies of the
258 bondholders as may be reasonable and proper and not in violation of law, including
259 covenants setting forth the duties of the authority in relation to the acquisition and
260 construction of the project, the maintenance, operation, repair, and insuring of the project,
261 and the custody, safeguarding, and application of all money.

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SECTION 11.

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Trust indenture as security; remedies of bondholders.

264 Any holder of revenue bonds and the trustee under the trust indenture, if any, except to the
265 extent that the rights given herein may be restricted by resolution passed before the issuance
266 of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action,
267 mandamus, or other proceedings, protect and enforce any and all rights it may have under
268 the laws of the state, including specifically, but without limitation, the Revenue Bond Law,
269 or granted hereunder or under such resolution or trust indenture and may enforce and compel
270 performance of all duties required by this Act or by such resolution or trust indenture to be
271 performed by the authority or any officer thereof, including the fixing, charging, and
272 collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and
273 services furnished.

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SECTION 12.

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Trust indenture as security; validation.

276 Revenue bonds and the security therefor shall be issued, confirmed, and validated in
277 accordance with the provisions of the Revenue Bond Law. The petition for validation shall
278 also make a person, corporation, firm, or local government a party defendant to such action
279 if such person, corporation, firm, or government has contracted with the authority for
280 services or facilities relating to the project for which revenue bonds are to be issued and
281 sought to be validated, and such defendant shall be required to show cause, if any exists, as
282 to why such contract or contracts shall not be adjudicated as a part of the basis for the
283 security for the payment of any such revenue bonds. The revenue bonds, when validated,
284 and the judgment of validation shall be final and conclusive with respect to such revenue
285 bonds and the security for the payment thereof and interest thereon and against the authority
286 and all other defendants.

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SECTION 13.

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To whom proceeds of bonds shall be paid.

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

294 **SECTION 14.**295 **Sinking fund.**

296 The money received pursuant to an intergovernmental contract and the revenues, fees, tolls,
297 fines, charges, and earnings derived from any particular project or projects, regardless of
298 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
299 particular project for which revenue bonds have been issued, unless otherwise pledged and
300 allocated, may be pledged and allocated by the authority to the payment of the principal and
301 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
302 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever
303 source received may be set aside at regular intervals as may be provided in the resolution or
304 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
305 the payment of:

- 306 (1) The interest upon such revenue bonds as the same shall fall due;
307 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
308 (3) Any premium upon such revenue bonds as the same shall fall due;
309 (4) The purchase of such revenue bonds in the open market; and
310 (5) The necessary charges of the paying agent for paying principal and interest.

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

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SECTION 15.

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Venue and jurisdiction.

318 Any action to protect or enforce any rights under the provisions of this Act or any suit or
319 action against such authority shall be brought in the Superior Court of Fulton County, and
320 any action pertaining to validation of any revenue bonds issued under the provisions of this
321 Act shall likewise be brought in said court which shall have exclusive, original jurisdiction
322 of such actions.

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SECTION 16.

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Interest of bondholders protected.

325 While any of the revenue bonds issued by the authority remain outstanding, the powers,
326 duties, or existence of such authority or its officers, employees, or agents shall not be
327 diminished or impaired in any manner that will affect adversely the interests and rights of the
328 holders of such revenue bonds; and no other entity, department, agency, or authority shall
329 be created which will compete with the authority to such an extent as to affect adversely the
330 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete
331 with the authority. The provisions of this Act shall be for the benefit of the authority and the
332 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
333 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

334 **SECTION 17.**

335 Money received considered trust funds.

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

339 **SECTION 18.**

340 Purpose of the authority; reversion upon dissolution.

341 (a) The authority is created for the purpose of promoting the public good and general
342 welfare of the citizens of the county, and the development, operation, financing and
343 providing facilities, equipment, products, and services to upgrade the technological
344 educational, and energy resources within the area of operation.

345 (b) Upon the dissolution of the authority, all assets owned by the authority shall become
346 the property of the county.

347 **SECTION 19.**

348 Rates, charges, and revenues; use.

349 The authority is hereby authorized to prescribe and fix rates and to revise same from time to
350 time and to collect revenues, tolls, fees, and charges for the services, facilities, and
351 commodities furnished and, in anticipation of the collection of the revenues, to issue revenue
352 bonds or other types of obligations as provided in this Act to finance, in whole or in part, the
353 costs of the project and to pledge to the punctual payment of said revenue bonds or other
354 obligations all or any part of the revenues.

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SECTION 20.

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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 21.

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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 the county; and the officers, agents, and employees

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of the authority when in the performance of the work of the authority shall have the same

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immunity and exemption from liability for torts and negligence as the officers, agents, and

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employees of the county when in the performance of their public duties or work of the

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county.

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SECTION 22.

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Tax exemption.

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The income of the authority, the properties of the authority, both real and personal, and all

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revenue bonds, certificates of participation, notes, and other forms of obligations issued by

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the authority shall be exempt from all state and local taxes and special assessments of any

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kind to the extent permitted by and in accordance with the general laws of the state.

375 **SECTION 23.**

376 Effect on other governments.

377 This Act shall not and does not in any way take from the county or any municipal
378 corporation the authority to own, operate, and maintain public facilities or to issue revenue
379 bonds as provided by the Revenue Bond Law.

380 **SECTION 24.**

381 Liberal construction of Act.

382 This Act, being for the welfare of various political subdivisions of this state and its
383 inhabitants, shall be liberally construed to effect the purposes hereof.

384 **SECTION 25.**

385 Severability; effect of partial invalidity of Act.

386 The provisions of this Act are severable, and if any of its provisions shall be held
387 unconstitutional by any court of competent jurisdiction, the decision of such court shall not
388 affect or impair any of the remaining provisions.

389 **SECTION 26.**

390 Purpose of the authority.

391 Without limiting the generality of any provision of this Act, the general purpose of the
392 authority is declared to be that of eliminating energy burdens and deficient access to energy
393 and technological resources within the area of operation.

394 **SECTION 27.**

395 Effective date.

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

398 **SECTION 28.**

399 Repealer.

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