

House Bill 762 (COMMITTEE SUBSTITUTE)

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 dissolution of the authority upon certain conditions; to confer powers upon
5 the authority; to provide for purpose and scope of operations of the authority; to provide for
6 definitions; to authorize the issuance of revenue bonds of the authority; to fix and provide
7 the venue and jurisdiction of actions relating to any provisions of this Act; to provide for
8 moneys received and trust funds; to provide for tort immunity; to provide for tax exemption,
9 rates, charges, and revenues; to provide for effect on other governments; to provide for
10 construction of this Act and severability; to provide for related matters; to provide for an
11 effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 762 (SUB)

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.

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

39 **SECTION 3.**

40 Fulton Technology and Energy Enhancement Authority.

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

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

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

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

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

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

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

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

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

65 (c) The authority shall elect from its members a chairperson, a vice chairperson, a
66 secretary, and a treasurer or a secretary-treasurer. All officers shall be voting members.

67 (d) A majority of the members shall constitute a quorum, and any action may be taken by
68 the authority upon the affirmative vote of a majority of a quorum of the members. No
69 vacancy on the authority shall impair the right of the quorum to exercise all of the rights
70 and perform all of the duties of the authority.

71 (e) The board members shall select a chairperson from among their membership.

72 (f) Members shall serve terms of four years. Vacancies on the board shall be filled by the
73 appointing authority appointing a new member to serve out the remainder of the unexpired
74 term.

75 (g) The authority shall stand dissolved upon the area of operation no longer being deemed
76 a high energy burden area by the authority, high school graduation rates for residents of the
77 area of operation is 90 percent of the graduation rate of the high school operated by an
78 independent school system in the county with the highest graduation rate, no more than 20
79 percent of the residents of the area of operation live below the national poverty level, and
80 the reading level of third grade students is at least 85 percent of the countywide average
81 reading level for such students.

SECTION 4.

Definitions.

84 As used in this Act, the term:

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

87 (A) Has an energy burden 30 percent higher than the average energy burden of the
88 county;

89 (B) Where the high schools serving the area have graduation rates that are in the
90 bottom quarter of all high schools in the county when ranked from highest to lowest
91 graduation rate;

92 (C) When all ZIP Codes in the county are ranked by their poverty rate, is in the top ten
93 percent of such ranking; and

94 (D) Where the reading level of third grade students is at least 85 percent of the
95 countywide average reading level for such students.

96 (2) "Authority" means the Fulton Technology and Energy Enhancement Authority
97 created by this Act.

98 (3) "Board" means the board of the Fulton Technology and Energy Enhancement
99 Authority.

100 (4) "Costs of the project" means and embraces the cost of construction; the cost of all
101 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
102 equipment; financing charges; interest prior to and during construction and for six months
103 after completion of construction; the cost of engineering, architectural, fiscal agents'
104 expenses, legal expenses, plans and specifications, and other expenses necessary or
105 incidental to determining the feasibility or practicability of the project; administrative
106 expenses and such other expenses as may be necessary or incidental to the financing

107 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
108 add to, extend, improve, equip, operate, and maintain the project.

109 (5) "County" means Fulton County, Georgia.

110 (6) "Project" means all buildings, facilities, and equipment authorized by the Revenue
111 Bond Law and deemed by the board as necessary or convenient for the efficient operation
112 the authority or in carrying out the objects of this Act.

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

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

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

124 (10) "Technology or energy development project" means a project developed by the
125 authority to improve the business, commercial, and residential technological or energy
126 infrastructure in the area of operation. Such project shall be designed according to the
127 specific problems and needs of the area addressed and may, without limitation, be
128 designed to eliminate blight, encourage the establishment or growth of commercial or
129 residential endeavors, or improve the quality of life in such area through the creation of
130 affordable energy facilities and programs.

SECTION 5.

Powers.

133 The authority shall have the power:

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

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

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

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

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

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

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

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

157 (9) To acquire in its own name by purchase, on such terms and conditions and in such
158 manner as it may deem proper, property for public use, real property or rights or
159 easements therein, or franchises necessary or convenient for its corporate purposes, and
160 to use the same so long as its corporate existence shall continue, and to lease or make
161 contracts with respect to the use of or dispose of the same in any manner it deems to the
162 best advantage of the authority, and no property shall be acquired under the provisions
163 of this Act upon which any lien or encumbrance exists, unless at the time such property
164 is so acquired a sufficient sum of money is to be deposited in trust to pay and redeem the
165 fair value of such lien or encumbrances;

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

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

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

178 (13) To pay the costs of the project with the proceeds of revenue bonds or other
179 obligations issued by the authority or from any grant or contribution from the United
180 States of America or any agency or instrumentality thereof or from the state or any
181 agency or instrumentality or other political subdivision thereof or from any other source
182 whatsoever;

- 183 (14) To borrow money for any of its corporate purposes and to issue revenue bonds, and
184 to provide for the payment of the same and for the rights of the holders thereof;
- 185 (15) To exercise any power usually possessed by private corporations performing similar
186 functions, including the power to incur short-term debt and to approve, execute, and
187 deliver appropriate evidence of any such indebtedness; and
- 188 (16) To do all things necessary or convenient to carry out the powers expressly given in
189 this Act.

190 **SECTION 6.**

191 Meetings and public hearings.

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

196 **SECTION 7.**

197 Revenue bonds.

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

206

SECTION 8.

207

Revenue bonds; conditions precedent to issuance.

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

217

SECTION 9.

218

Credit not pledged.

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

226

SECTION 10.

227

Trust indenture as security.

228 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
229 indenture by and between the authority and a corporate trustee, which may be any trust
230 company or bank having the powers of a trust company within or without this state. Either
231 the resolution providing for the issuance of the revenue bonds or such trust indenture may
232 contain such provisions for protecting and enforcing the rights and remedies of the
233 bondholders as may be reasonable and proper and not in violation of law, including
234 covenants setting forth the duties of the authority in relation to the acquisition and
235 construction of the project, the maintenance, operation, repair, and insuring of the project,
236 and the custody, safeguarding, and application of all money.

237

SECTION 11.

238

Trust indenture as security; remedies of bondholders.

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

249

SECTION 12.

250

Trust indenture as security; validation.

251 Revenue bonds and the security therefor shall be issued, confirmed, and validated in
252 accordance with the provisions of the Revenue Bond Law. The petition for validation shall
253 also make a person, corporation, firm, or local government a party defendant to such action
254 if such person, corporation, firm, or government has contracted with the authority for
255 services or facilities relating to the project for which revenue bonds are to be issued and
256 sought to be validated, and such defendant shall be required to show cause, if any exists, as
257 to why such contract or contracts shall not be adjudicated as a part of the basis for the
258 security for the payment of any such revenue bonds. The revenue bonds, when validated,
259 and the judgment of validation shall be final and conclusive with respect to such revenue
260 bonds and the security for the payment thereof and interest thereon and against the authority
261 and all other defendants.

262

SECTION 13.

263

To whom proceeds of bonds shall be paid.

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

269

SECTION 14.

270

Sinking fund.

271 The money received pursuant to an intergovernmental contract and the revenues, fees, tolls,
272 fines, charges, and earnings derived from any particular project or projects, regardless of
273 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
274 particular project for which revenue bonds have been issued, unless otherwise pledged and
275 allocated, may be pledged and allocated by the authority to the payment of the principal and
276 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
277 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever
278 source received may be set aside at regular intervals as may be provided in the resolution or
279 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
280 the payment of:

- 281 (1) The interest upon such revenue bonds as the same shall fall due;
- 282 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- 283 (3) Any premium upon such revenue bonds as the same shall fall due;
- 284 (4) The purchase of such revenue bonds in the open market; and
- 285 (5) The necessary charges of the paying agent for paying principal and interest.

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

291 **SECTION 15.**

292 Venue and jurisdiction.

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

298 **SECTION 16.**

299 Interest of bondholders protected.

300 While any of the revenue bonds issued by the authority remain outstanding, the powers,
301 duties, or existence of such authority or its officers, employees, or agents shall not be
302 diminished or impaired in any manner that will affect adversely the interests and rights of the
303 holders of such revenue bonds; and no other entity, department, agency, or authority shall
304 be created which will compete with the authority to such an extent as to affect adversely the
305 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete
306 with the authority. The provisions of this Act shall be for the benefit of the authority and the
307 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
308 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

309 **SECTION 17.**

310 Money received considered trust funds.

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

314 **SECTION 18.**

315 Purpose of the authority; reversion upon dissolution.

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

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

322 **SECTION 19.**

323 Rates, charges, and revenues; use.

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

330

SECTION 20.

331

Rules, regulations, service policies, and

332

procedures for operation of projects.

333

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

334

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

335

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

336

SECTION 21.

337

Tort immunity.

338

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

339

from liability for torts and negligence as the county; and the officers, agents, and employees

340

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

341

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

342

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

343

county.

344

SECTION 22.

345

Tax exemption.

346

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

347

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

348

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

349

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

350 **SECTION 23.**

351 Effect on other governments.

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

355 **SECTION 24.**

356 Liberal construction of Act.

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

359 **SECTION 25.**

360 Severability; effect of partial invalidity of Act.

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

364 **SECTION 26.**

365 Purpose of the authority.

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

369 **SECTION 27.**

370 Effective date.

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

373 **SECTION 28.**

374 Repealer.

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