

House Bill 435

By: Representatives Taylor of the 79<sup>th</sup> and Hanson of the 80<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the City of Dunwoody Public Facilities Authority; to provide for a short title; to  
2 confer powers upon the authority; to authorize the issuance of revenue bonds of the authority  
3 payable from the revenues, tolls, fees, charges, and earnings of the authority, contract  
4 payments to the authority, and from other moneys pledged therefor and to authorize the  
5 collection and pledging of the revenues, tolls, fees, charges, earnings, and contract payments  
6 of the authority for the payment of such revenue bonds; to authorize the execution of  
7 resolutions and trust indentures to secure the payment of the revenue bonds of the authority  
8 and to define the rights of the holders of such obligations; to make the revenue bonds of the  
9 authority exempt from taxation; to fix and provide the venue and jurisdiction of actions  
10 relating to the authority; to provide for the validation of bonds; to provide for tort immunity;  
11 to provide for related matters; to repeal conflicting laws; and for other purposes.

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

13 **SECTION 1.**

14 Short title.

15 This Act shall be known and may be cited as the "City of Dunwoody Public Facilities  
16 Authority Act."

17 **SECTION 2.**

18 City of Dunwoody Public Facilities Authority.

19 (a) There is hereby created a public body corporate and politic to be known as the "City of  
20 Dunwoody Public Facilities Authority," which shall be deemed to be a political subdivision  
21 of the state and a public corporation, and by that name, style, and title, said body may  
22 contract and be contracted with, sue and be sued, implead and be impleaded, and complain  
23 and defend in all courts of law and equity. The authority shall have perpetual existence.

24 (b) The authority shall consist of seven members who shall be the mayor and council of the  
 25 City of Dunwoody. Only the mayor and councilmembers may be appointed as members of  
 26 the authority. With respect to the initial appointment of the mayor and council of the City  
 27 of Dunwoody, all terms shall coincide with the term of the respective mayor and  
 28 councilmember regardless of the remaining time of such term. Thereafter, all appointments  
 29 shall be made for terms of four years and until a successor has been elected as mayor or  
 30 councilmember of the City of Dunwoody. Immediately after such appointments, the  
 31 members of the authority shall enter upon their duties.

32 (c) The mayor and council of the City of Dunwoody shall not provide for additional  
 33 compensation for the services of the members of the authority; provided, however, that such  
 34 members shall be reimbursed for their actual expenses necessarily incurred in the  
 35 performance of their duties.

36 (d) The members of the authority shall elect one of their number as chairperson and another  
 37 as a vice chairperson. The members of the authority shall also elect a secretary, who need  
 38 not be a member of the authority, and may also elect a treasurer, who need not be a member  
 39 of the authority. The secretary may also serve as treasurer. If the secretary and treasurer are  
 40 not members of the authority, such officers shall have no voting rights. Each of such officers  
 41 shall serve for a period of one year and until their successors are duly elected and qualified.

42 (e) Four members of the authority shall constitute a quorum. No vacancy on the authority  
 43 shall impair the right of the quorum to exercise all of the rights and perform all of the duties  
 44 of the authority.

### 45 **SECTION 3.**

#### 46 **Definitions.**

47 As used in this Act, the term:

48 (1) 'Authority' means the City of Dunwoody Public Facilities Authority created by this  
 49 Act.

50 (2) 'Costs of the project' means and embraces the cost of construction; the cost of all  
 51 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and  
 52 equipment; financing charges; interest prior to and during construction and for six months  
 53 after completion of construction; the cost of engineering, architectural, fiscal agents' and  
 54 legal expenses, plans and specifications, and other expenses necessary or incidental to  
 55 determining the feasibility or practicability of the project; administrative expenses and  
 56 such other expenses as may be necessary or incident to the financing herein authorized;  
 57 working capital; and all other costs necessary to acquire, construct, add to, extend,  
 58 improve, equip, operate, and maintain the project.

59 (3) 'Project' means:

60 (A) All buildings, facilities, and equipment necessary or convenient for the efficient  
61 operation of the City of Dunwoody, Georgia, or any department, agency, division, or  
62 commission thereof; and

63 (B) Any undertaking permitted by the Revenue Bond Law.

64 (4) 'Revenue Bond Law' means the Revenue Bond Law of the State of Georgia (codified  
65 at O.C.G.A. Section 36-82-62, et seq., as amended), or any other similar law hereinafter  
66 enacted.

67 (5) 'Revenue bonds' means revenue bonds authorized to be issued pursuant to this Act.

68 (6) 'Self-liquidating' means any project which the revenues and earnings to be derived  
69 by the authority therefrom, including but not limited to any contractual payments with  
70 governmental or private entities, and all properties used, leased, and sold in connection  
71 therewith, together with any grants, will be sufficient to pay the costs of operating,  
72 maintaining, and repairing the project and to pay the principal and interest on the revenue  
73 bonds or other obligations which may be issued for the purpose of paying the costs of the  
74 project.

75 (7) 'State' means the State of Georgia.

76 **SECTION 4.**

77 Powers.

78 The authority shall have the power:

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

80 (2) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,  
81 maintain, lease, and dispose of real and personal property of every kind and character for  
82 its corporate purposes;

83 (3) To acquire in its own name by purchase, on such terms and conditions and in such  
84 manner as it may deem proper, or by condemnation in accordance with the provisions of  
85 any and all existing laws applicable to the condemnation of property for public use, real  
86 property or rights or easements therein, or franchises necessary or convenient for its  
87 corporate purposes, and to use the same so long as its corporate existence shall continue,  
88 and to lease or make contracts with respect to the use of or dispose of the same in any  
89 manner it deems to the best advantage of the authority, the authority being under no  
90 obligation to accept and pay for any property condemned under this Act, except from the  
91 funds provided under the authority of this Act, and in any proceedings to condemn, such  
92 orders may be made by the court having jurisdiction of the suit, action, or proceedings  
93 as may be just to the authority and to the owners of the property to be condemned, and

94 no property shall be acquired under the provisions of this Act upon which any lien or  
95 encumbrance exists, unless at the time such property is so acquired a sufficient sum of  
96 money is to be deposited in trust to pay and redeem the fair value of such lien or  
97 encumbrance;

98 (4) To appoint, select, and employ officers, agents, and employees, including  
99 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix  
100 their respective compensations;

101 (5) To execute contracts, leases, installment sale agreements, and other agreements and  
102 instruments necessary or convenient in connection with the acquisition, construction,  
103 addition, extension, improvement, equipping, operation, or maintenance of a project; and  
104 any and all persons, firms and corporations, and the City of Dunwoody, Georgia, are  
105 hereby authorized to enter into contracts, leases, installment sale agreements, and other  
106 agreements or instruments with the authority upon such terms and for such purposes as  
107 they deem advisable and as they are authorized by law;

108 (6) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,  
109 and dispose of projects;

110 (7) To pay the costs of the project with the proceeds of revenue bonds or other  
111 obligations issued by the authority or from any grant or contribution from the United  
112 States of America or any agency or instrumentality thereof or from the state or any  
113 agency or instrumentality or other political subdivision thereof or from any other source  
114 whatsoever;

115 (8) To accept loans or grants of money or materials or property of any kind from the  
116 United States of America or any agency or instrumentality thereof, upon such terms and  
117 conditions as the United States of America or such agency or instrumentality may  
118 require;

119 (9) To accept loans or grants of money or materials or property of any kind from the state  
120 or any agency or instrumentality or political subdivision thereof, upon such terms and  
121 conditions as the state or such agency or instrumentality or political subdivision may  
122 require;

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

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

128 (12) To do all things necessary or convenient to carry out the powers expressly given in  
129 this Act.

130 **SECTION 5.**

131 Revenue bonds.

132 The authority, or any authority or body which has or which may in the future succeed to the  
133 powers, duties, and liabilities vested in the authority created hereby, shall have the power and  
134 is hereby authorized to provide by resolution for the issuance of revenue bonds of the  
135 authority for the purpose of paying all or any part of the costs of the project and for the  
136 purpose of refunding revenue bonds or other obligations previously issued. The principal of  
137 and interest on such revenue bonds shall be payable solely from the special fund hereby  
138 provided for such payment. The revenue bonds of each issue shall be dated, shall bear  
139 interest at such rate or rates per annum, shall be payable at such time or times, shall mature  
140 at such time or times not exceeding 40 years from their date or dates, shall be payable in such  
141 medium of payment as to both principal and interest as may be determined by the authority,  
142 and may be redeemable before maturity, at the option of the authority, at such price or prices  
143 and under such terms and conditions as may be fixed by the authority in the resolution for  
144 the issuance of such revenue bonds.

145 **SECTION 6.**

146 Revenue bonds; form; denomination; registration; place of payment.

147 The authority shall determine the form of the revenue bonds and shall fix the denomination  
148 or denominations of the revenue bonds. The revenue bonds may be issued in coupon or  
149 registered form, or both, as the authority may determine, and provision may be made for  
150 registration and exchangeability privileges. The authority shall fix the place or places of  
151 payment of principal and interest thereon.

152 **SECTION 7.**

153 Revenue bonds; signatures; seal.

154 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or  
155 vice chairperson of the authority and the attesting manual or facsimile signature of the  
156 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of  
157 the authority shall be impressed or imprinted thereon. Any coupons attached thereto shall  
158 bear the manual or facsimile signatures of the chairperson or vice chairperson and the  
159 secretary, assistant secretary, or secretary-treasurer of the authority. Any revenue bonds or  
160 coupons attached thereto may bear the manual or facsimile signature of such persons as at  
161 the actual time of the execution of such revenue bonds or coupons shall be duly authorized

162 or hold the proper office, although at the date of issuance of such revenue bonds such person  
163 may not have been so authorized or shall not have held such office. In case any officer  
164 whose signature shall appear on any revenue bond or any coupon shall cease to be such  
165 officer before the delivery of such revenue bond, such signature shall nevertheless be valid  
166 and sufficient for all purposes, the same as if that person had remained in office until such  
167 delivery.

168 **SECTION 8.**

169 Revenue bonds; negotiability; exemption from taxation.

170 All revenue bonds shall have and are hereby declared to have all the qualities and incidents  
171 of negotiable instruments under the laws of the state. All revenue bonds, their transfer, and  
172 the income therefrom shall be exempt from all taxation within the state.

173 **SECTION 9.**

174 Revenue bonds; sale; price; proceeds.

175 The authority may sell revenue bonds in such manner and for such price as it may determine  
176 to be in the best interest of the authority. The proceeds derived from the sale of revenue  
177 bonds shall be used solely for the purpose or purposes provided in the resolutions and  
178 proceedings authorizing the issuance of such revenue bonds.

179 **SECTION 10.**

180 Interim receipts and certificates or temporary revenue bonds.

181 Prior to the preparation of any definitive revenue bonds, the authority may, under like  
182 restrictions, issue interim receipts, interim certificates, or temporary revenue bonds, with or  
183 without coupons, exchangeable for definitive revenue bonds upon the issuance of the latter.

184 **SECTION 11.**

185 Replacement of lost or mutilated revenue bonds.

186 The authority may provide for the replacement of any revenue bonds or coupons which shall  
187 become mutilated or be destroyed or lost.

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**SECTION 12.**

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Conditions precedent to issuance of revenue bonds.

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

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**SECTION 13.**

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Credit not pledged.

201 Revenue bonds shall not be deemed to constitute a debt of the City of Dunwoody, Georgia,  
202 nor a pledge of the faith and credit of the city, but such revenue bonds shall be payable solely  
203 from the fund provided for in this Act. The issuance of such revenue bonds shall not  
204 directly, indirectly, or contingently obligate the city to levy or to pledge any form of taxation  
205 whatsoever for payment of such revenue bonds or to make any appropriation for their  
206 payment, and all such revenue bonds shall contain recitals on their face covering  
207 substantially the foregoing provisions of this section. Notwithstanding the foregoing  
208 provisions, this Act shall not affect the ability of the authority and any political subdivision  
209 or municipality to enter into an intergovernmental contract pursuant to which the political  
210 subdivision or municipality agrees to pay amounts sufficient to pay operating charges and  
211 other costs of the authority or any project including, without limitation, the principal of and  
212 interest on revenue bonds in consideration for services or facilities of the authority.

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**SECTION 14.**

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Trust indenture as security.

215 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust  
216 indenture by and between the authority and a corporate trustee, which may be any trust  
217 company or bank having the powers of a trust company inside or outside the state. Either the  
218 resolution providing for the issuance of the revenue bonds or such trust indenture may  
219 contain such provisions for protecting and enforcing the rights and remedies of the

220 bondholders as may be reasonable and proper and not in violation of law, including  
 221 covenants setting forth the duties of the authority in relation to the acquisition and  
 222 construction of the project, the maintenance, operation, repair, and insuring of the project,  
 223 and the custody, safeguarding, and application of all moneys.

224 **SECTION 15.**

225 To whom proceeds of bonds shall be paid.

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

231 **SECTION 16.**

232 Sinking fund.

233 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,  
 234 charges, and earnings derived from any particular project or projects, regardless of whether  
 235 or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular  
 236 project for which revenue bonds have been issued, unless otherwise pledged and allocated,  
 237 may be pledged and allocated by the authority to the payment of the principal and interest  
 238 on revenue bonds of the authority as the resolution authorizing the issuance of the revenue  
 239 bonds or in the trust indenture may provide, and such funds so pledged from whatever source  
 240 received shall be set aside at regular intervals as may be provided in the resolution or trust  
 241 indenture into a sinking fund, which sinking fund shall be pledged to and charged with the  
 242 payment of:

- 243 (1) The interest upon such revenue bonds as such interest shall fall due;  
 244 (2) The principal or purchase price of such revenue bonds as the same shall fall due;  
 245 (3) Any premium upon such revenue bonds as the same shall fall due;  
 246 (4) The purchase of such revenue bonds in the open market; and  
 247 (5) The necessary charges of the paying agent for paying principal and interest.

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

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**SECTION 17.**

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## Remedies of bondholders.

255 Any holder of revenue bonds or any of the coupons appertaining thereto, and the trustee  
256 under the trust indenture, if any, except to the extent the rights herein given may be restricted  
257 by resolution passed before the issuance of the revenue bonds or by the trust indenture, may,  
258 either at law or in equity, by suit, action, mandamus, or other proceedings, protect and  
259 enforce any and all rights under the laws of the state, including specifically but without  
260 limitation the Revenue Bond Law, or granted hereunder or under such resolution or trust  
261 indenture, and may enforce and compel performance of all duties required by this Act or by  
262 such resolution or trust indenture to be performed by the authority or any officer thereof,  
263 including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges  
264 for the use of the facilities and services furnished.

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**SECTION 18.**

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## Validation.

267 Revenue bonds and the security therefor shall be confirmed and validated in accordance with  
268 the procedure of the Revenue Bond Law. The petition for validation shall also make party  
269 defendant to such action the state; any institution, department, or other agency thereof; and  
270 any county, municipality, school district, or other political subdivision or authority of the  
271 state which has contracted with the authority for services or facilities relating to the project  
272 for which revenue bonds are to be issued and sought to be validated, and such defendant shall  
273 be required to show cause, if any exists, why such contract or contracts shall not be  
274 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.  
275 The revenue bonds, when validated, and the judgment of validation shall be final and  
276 conclusive with respect to such revenue bonds and the security for the payment thereof and  
277 interest thereon and against the authority and all other defendants.

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**SECTION 19.**

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## Venue and jurisdiction.

280 Any action to protect or enforce any rights under the provisions of this Act or any suit or  
281 action against such authority shall be brought in the Superior Court of Fulton County,  
282 Georgia, and any action pertaining to validation of any revenue bonds issued under the  
283 provisions of this Act shall likewise be brought in said court which shall have exclusive,  
284 original jurisdiction of such actions.

285 **SECTION 20.**

286 Interest of bondholders protected.

287 While any of the revenue bonds issued by the authority remain outstanding, the powers,  
288 duties, or existence of the authority or its officers, employees, or agents shall not be  
289 diminished or impaired in any manner that will affect adversely the interests and rights of the  
290 holders of such revenue bonds, and no other entity, department, agency, or authority will be  
291 created which will compete with the authority to such an extent as to affect adversely the  
292 interests and rights of the holders of such revenue bonds, nor will the state itself so compete  
293 with the authority. The provisions of this Act shall be for the benefit of the authority and the  
294 holders of any such revenue bonds and, upon the issuance of such revenue bonds under the  
295 provisions hereof, shall constitute a contract with the holders of such revenue bonds.

296 **SECTION 21.**

297 Moneys received considered trust funds.

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

301 **SECTION 22.**

302 Purpose of the authority.

303 Without limiting the generality of any provision of this Act, the general purpose of the  
304 authority is declared to be that of providing buildings, facilities, equipment, and services for  
305 the citizens in the City of Dunwoody, Georgia.

306 **SECTION 23.**

307 Rates, charges, and revenues; use.

308 The authority is hereby authorized to prescribe and fix rates and to revise same from time to  
309 time and to collect revenues, tolls, fees, and charges for the services, facilities, and  
310 commodities furnished and, in anticipation of the collection of the revenues, to issue revenue  
311 bonds or other types of obligations as herein provided to finance, in whole or in part, the  
312 costs of the project, and to pledge to the punctual payment of said revenue bonds or other  
313 obligations all or any part of the revenues.

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**SECTION 24.**

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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 25.**

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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 City of Dunwoody, Georgia; and the officers,

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agents, and employees of the authority when in the performance of the work of the authority

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shall have the same immunity and exemption from liability for torts and negligence as the

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officers, agents, and employees of the City of Dunwoody, Georgia, when in the performance

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of their public duties or the work of the city.

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**SECTION 26.**

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Tax-exempt status of the authority.

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The properties of the authority, both real and personal, are declared to be public properties

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used for the benefit and welfare of the people of the state and not for purposes of private or

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corporate benefit and income, and such properties and the authority shall be exempt from all

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taxes and special assessments of any municipality, county, or the state and any political

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subdivision thereof.

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**SECTION 27.**

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Effect on other governments.

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This Act shall not and does not in any way take from the City of Dunwoody, Georgia, or any

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political subdivision or municipality the authority to own, operate, and maintain public

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facilities or to issue revenue bonds as provided by the Revenue Bond Law.

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**SECTION 28.**

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Liberal construction of Act.

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This Act, being for the welfare of various political subdivisions and municipalities of the

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state and its inhabitants, shall be liberally construed to effect the purposes hereof.

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**SECTION 29.**

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Severability; effect of partial invalidity of Act.

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The provisions of this Act are severable, and if any of its provisions shall be held

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unconstitutional by any court of competent jurisdiction, the decision of such court shall not

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affect or impair any of the remaining provisions.

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**SECTION 30.**

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Effective date.

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This Act shall become effective upon its approval by the Governor or upon its becoming law

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without such approval.

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**SECTION 31.**

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Repeal.

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