

Senate Bill 151

By: Senators Beach of the 21st, Albers of the 56th and Still of the 48th

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To create the Joint Development Authority of North Fulton Municipalities; to provide a short
2 title; to provide definitions; to provide for the powers of the authority; to provide for
3 directors of the authority; to provide a development area; to provide for revenue bonds and
4 other obligations of the authority; to recite constitutional authority; to provide for effect on
5 other authorities; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.
9 Short title of Act.

10 This Act shall be known and may be cited as the "Joint Development Authority of North
11 Fulton Municipalities Act."

SECTION 2.

Definitions.

14 As used in this Act:

15 (1) "Authority" shall mean the Joint Development Authority of North Fulton
16 Municipalities created pursuant to Section 3 of this Act.

17 (2) "Cost of the project" or "cost of any project" shall mean and shall include: all costs
18 of acquisition (by purchase or otherwise), demolition, funds for the creation of a
19 revolving loan fund, construction, assembly, installation, modification, renovation, or
20 rehabilitation incurred in connection with any project or any part of any project; all costs
21 of real property, fixtures, or personal property used in or in connection with or necessary
22 for any project or for any facilities related thereto, including, but not limited to, the cost
23 of all land, estates for years, easements, rights, improvements, water rights, connections
24 for utility services, fees, franchises, permits, approvals, licenses, and certificates; the cost
25 of securing any such franchises, permits, approvals, licenses, or certificates and the cost
26 of preparation of any application therefor; the cost of all fixtures, machinery, equipment,
27 furniture, and other property used in or in connection with or necessary for any project;
28 all financing charges and loan fees and all interest on revenue bonds, notes, or other
29 obligations of an authority which accrues or is paid prior to and during the period of
30 construction of a project and during such additional period as the authority may
31 reasonably determine to be necessary to place such project in operation; all costs of
32 engineering, surveying, architectural, and legal services and all expenses incurred by
33 engineers, surveyors, architects, and attorneys in connection with any project; all
34 expenses for inspection of any project; all fees of fiscal agents, paying agents, and
35 trustees for bondholders under any trust agreement, indenture of trust, or similar
36 instrument or agreement; all expenses incurred by any such fiscal agents, paying agents,
37 and trustees; all other costs and expenses incurred relative to the issuance of any revenue

38 bonds, notes, or other obligations for any project; all fees of any type charged by an
39 authority in connection with any project; all expenses of or incident to determining the
40 feasibility or practicability of any project; all costs of plans and specifications for any
41 project; all costs of title insurance and examinations of title with respect to any project;
42 repayment of any loans made for the advance payment of any part of any of the foregoing
43 costs, including interest thereon and any other expenses of such loans; administrative
44 expenses of the authority and such other expenses as may be necessary or incident to any
45 project or the financing thereof or the placing of any project in operation; and a fund or
46 funds for the creation of a debt service reserve, a renewal and replacement reserve, or
47 such other funds or reserves as the authority may approve with respect to the financing
48 and operation of any project and as may be authorized by any bond resolution, trust
49 agreement, indenture of trust, or similar instrument or agreement pursuant to the
50 provisions of which the issuance of any revenue bonds, notes, or other obligations of the
51 authority may be authorized. Any cost, obligation, or expense incurred for any of the
52 foregoing purposes shall be a part of the cost of the project and may be paid or
53 reimbursed as such out of proceeds of revenue bonds, notes, or other obligations issued
54 by the authority.

55 (3) "Development area" means the geographical area of operations of the authority as
56 described in Section 5 of this Act.

57 (4) "Project" shall mean the acquisition, demolition, construction, installation,
58 modification, renovation, or rehabilitation of land, interests in land, buildings, structures,
59 facilities, or other improvements located or to be located within the development area and
60 the acquisition, installation, modification, renovation, rehabilitation, or furnishing of
61 fixtures, machinery, equipment, furniture, or other property of any nature whatsoever
62 used on, in, or in connection with any such land, interest in land, building, structure,
63 facility, or other improvement, all for the essential public purpose of the development of
64 trade, commerce, industry, and employment opportunities in the development area. A

65 project may be for any industrial, commercial, residential, business, office, parking,
66 public, or other use, including the administration and operation of a revolving loan fund,
67 provided that a majority of the directors of the authority determine, by a resolution duly
68 adopted, that the project and such use thereof would further the public purpose of this
69 Act.

70 (5) "Revenue bonds" or "bonds" shall mean any bonds issued by the authority that are
71 authorized to be issued under the Constitution and laws of the State of Georgia, including
72 refunding bonds and revenue bonds issued pursuant to Article 3 of Chapter 82 of Title 36
73 of the O.C.G.A., the "Revenue Bond Law," but not including notes or other obligations
74 of an authority.

75 SECTION 3.

76 Creation and power of authority.

77 (a) There is created a public body corporate and politic known as the Joint Development
78 Authority of North Fulton Municipalities.

79 (b) The authority shall have all of the powers necessary or convenient to carry out and
80 effectuate the purposes and provisions of this Act, including, but without limiting the
81 generality of the foregoing, the power to:

82 (1) Sue and be sued;

83 (2) Adopt and amend a corporate seal;

84 (3) Make and execute contracts, agreements, and other instruments necessary or
85 convenient to exercise the powers of the authority or to further the public purpose for
86 which the authority is created, including, but not limited to, contracts for construction of
87 projects, leases of projects, contracts for sale of projects, agreements for loans to finance
88 projects, and contracts with respect to the use of projects;

- 89 (4) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and
90 personal property of every kind and character or any interest therein in furtherance of the
91 public purpose of the authority;
- 92 (5) Finance, by loan, grant, lease, or otherwise, construct, demolish, erect, assemble,
93 purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend,
94 improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the
95 cost of any project from the proceeds of revenue bonds, notes, or other obligations of the
96 authority or any other funds of the authority, or from any contributions or loans by
97 persons, corporations, partnerships (limited or general), or other entities, all of which the
98 authority is authorized to receive and accept and use;
- 99 (6) Borrow money to further or carry out its public purpose and to execute revenue
100 bonds; notes; other obligations; leases; trust indentures; trust agreements; agreements for
101 the sale of its revenue bonds, notes, or other obligations; loan agreements; mortgages;
102 deeds to secure debt; trust deeds; security agreements; assignments; and such other
103 agreements or instruments as may be necessary or desirable, in the judgment of the
104 authority, to evidence and to provide security for such borrowing;
- 105 (7) Issue revenue bonds, notes, or other obligations of the authority and use the proceeds
106 thereof to pay all or any part of the cost of any project and otherwise to further or carry
107 out the public purpose of the authority and to pay all costs of the authority incidental to,
108 or necessary and appropriate to, furthering or carrying out such purpose;
- 109 (8) Make application directly or indirectly to any federal, state, county, or municipal
110 government or agency or to any other source, public or private, for loans, grants,
111 guarantees, or other financial assistance in furtherance of the authority's public purpose
112 and to accept and use the same upon such terms and conditions as are prescribed by such
113 federal, state, county, or municipal government or agency or other source;

114 (9) Enter into agreements with the federal government or any agency thereof to use the
115 facilities or the services of the federal government or any agency thereof in order to
116 further or carry out the public purpose of the authority;

117 (10) Contract for any period not exceeding 50 years with the State of Georgia, state
118 institutions, or any city, town, municipality, or county of the state for the use by the
119 authority of any facilities or services of the state or any such state institution, city, town,
120 municipality, or county or for the use by any state institution or any city, town,
121 municipality, or county of any facilities or services of the authority, provided that such
122 contracts shall deal with such activities and transactions as the authority and any such
123 political subdivision with which the authority contracts are by law authorized to
124 undertake;

125 (11) Extend credit or make loans to any person, corporation, partnership (limited or
126 general), or other entity for the costs of any project or any part of the costs of any project,
127 which credit or loans may be evidenced or secured by loan agreements, notes, mortgages,
128 deeds to secure debt, trust deeds, security agreements, assignments, or other instruments
129 or by rentals, revenues, fees, or charges, upon such terms and conditions as the authority
130 shall determine to be reasonable in connection with such extension of credit or loans,
131 including provision for the establishment and maintenance of reserve funds, and, in the
132 exercise of powers granted in connection with any project, the authority shall have the
133 right and power to require the inclusion in any such loan agreement, note, mortgage, deed
134 to secure debt, trust deed, security agreement, assignment, or other instrument of such
135 provisions or requirements for guarantee of any obligations, insurance, construction, use,
136 operation, maintenance, and financing of a project and such other terms and conditions
137 as the authority may deem necessary or desirable;

138 (12) As security for repayment of any revenue bonds, notes, or other obligations of the
139 authority, pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any
140 property of the authority (including but not limited to real property, fixtures, personal

141 property, and revenues or other funds) and to execute any lease; trust indenture; trust
142 agreement; agreement for the sale of the authority's revenue bonds, notes, or other
143 obligations; loan agreement; mortgage; deed to secure debt; trust deed; security
144 agreement; assignment; or other agreement or instrument as may be necessary or
145 desirable in the judgment of the authority to secure any such revenue bonds, notes, or
146 other obligations, which instruments or agreements may provide for foreclosure or forced
147 sale of any property of the authority upon default in any obligation of the authority, either
148 in payment of principal, premium, if any, or interest or in the performance of any term
149 or condition contained in any such agreement or instrument. The State of Georgia on
150 behalf of itself and each county, municipal corporation, political subdivision, or taxing
151 district therein waives any right it or such county, municipal corporation, political
152 subdivision, or taxing district may have to prevent the forced sale or foreclosure of any
153 property of the authority upon such default and agrees that any agreement or instrument
154 encumbering such property may be foreclosed in accordance with law and the terms
155 thereof;

156 (13) Receive and use the proceeds of any tax levied by a county or municipal corporation
157 to pay the costs of any project or for any other purpose for which the authority may use
158 its own funds pursuant to this Act;

159 (14) Receive and administer gifts, grants, and devises of money and property of any kind
160 and to administer trusts;

161 (15) Use any real property, personal property, or fixtures or any interest therein to rent
162 or lease such property to or from others or make contracts with respect to the use thereof,
163 or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant
164 options for any such property in any manner as it deems to be to the best advantage of the
165 authority and the public purpose thereof;

166 (16) Acquire, accept, or retain equitable interests, security interests, or other interests in
167 any real property, personal property, or fixtures by loan agreement, note, mortgage, deed

168 to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract,
169 lien, loan agreement, or other consensual transfer in order to secure the repayment of any
170 monies loaned or credit extended by the authority;

171 (17) Appoint, select, and employ engineers, surveyors, architects, urban or city planners,
172 developers, fiscal agents, attorneys, and others and to fix their compensation and pay their
173 expenses;

174 (18) Encourage and promote the improvement and revitalization of the development area
175 and to make, contract for, or otherwise cause to be made long-range plans or proposals
176 for the development area in cooperation with any municipality or the county within which
177 the development area is located;

178 (19) Adopt bylaws governing the conduct of business by the authority, the election and
179 duties of officers of the authority, and other matters which the authority determines to
180 deal within its bylaws;

181 (20) Exercise, except where such exercise would conflict with the provisions of this Act,
182 any powers granted by Chapter 62 of Title 36 of the O.C.G.A., the "Development
183 Authorities Law," to development authorities established in such law;

184 (21) Exercise any power granted by the laws of the State of Georgia to public or private
185 corporations which is not in conflict with the public purpose of the authority; and

186 (22) Do all things necessary or convenient to carry out the powers conferred by this Act.

187 (c) The powers enumerated in subsection (b) of this section are cumulative with and in
188 addition to those enumerated elsewhere in this Act, and no such power limits or restricts
189 any other power of the authority.

SECTION 4.190
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Directors of authority; disqualifications.

192 (a)(1) The authority shall be governed by a board composed of seven directors to be
193 appointed as follows:194 (A) One director shall be appointed by the governing authority of the City of
195 Alpharetta;196 (B) One director shall be appointed by the governing authority of the City of Johns
197 Creek;

198 (C) One director shall be appointed by the governing authority of the City of Milton;

199 (D) One director shall be appointed by the governing authority of the City of Mountain
200 Park;

201 (E) One director shall be appointed by the governing authority of the City of Roswell;

202 (F) One director shall be appointed by the governing authority of the City of Sandy
203 Springs; and204 (G) One director shall be appointed by a majority of the directors provided for in
205 subparagraphs (A) through (F) of this paragraph.206 (2) The directors appointed pursuant to subparagraphs (A) through (F) of paragraph (1)
207 of this subsection shall be taxpayers residing in the municipality he or she is appointed
208 by. The director appointed pursuant to subparagraph (G) of paragraph (1) of this
209 subsection shall be a taxpayer residing within the development area.210 (b) Terms of office of directors of the authority shall be for four years and until their
211 successors are appointed and qualified, except that the initial directors appointed pursuant
212 to subparagraphs (B), (D), and (F) of paragraph (1) of subsection (a) of this section shall
213 serve initial terms of office of two years and until their successors are appointed and
214 qualified. Thereafter, terms of office of all directors of the authority shall be for four years
215 and until their successors are appointed and qualified. Any vacancy of office shall be filled

216 in like manner as the original appointment, and the person appointed to fill such vacancy
217 shall serve for the remainder of the unexpired term and until a successor is appointed and
218 qualified.

219 (c) No director of the authority shall be disqualified from serving on the authority because
220 of any pecuniary interest in a project as defined in Section 2 of this Act, but the fact of such
221 interest shall be disclosed by such director and recorded on the minutes of the authority.
222 The director shall abstain from voting on any project in which he or she has such pecuniary
223 interest.

224 (d) The directors of the authority shall elect from their membership officers to serve terms
225 to be determined by a subsequent organizing resolution adopted by the board, and such
226 officers shall include a chairperson, vice chairperson, and secretary-treasurer.

227 **SECTION 5.**

228 Development area; change of boundaries.

229 The development area defined in this Act shall be all of that tract or parcel of land within
230 Fulton County that are also within the corporate limits of the City of Alpharetta, the City of
231 Johns Creek, the City of Milton, the City of Mountain Park, the City of Roswell, and the City
232 of Sandy Springs, as such corporate limits now or hereafter exist.

233 **SECTION 6.**

234 Revenue bonds.

235 Revenue bonds, notes, or other obligations issued by an authority shall be paid solely from
236 the property (including but not limited to real property, fixtures, personal property, revenues,
237 or other funds) pledged, mortgaged, conveyed, assigned, hypothecated, or otherwise
238 encumbered to secure or to pay such bonds, notes, or other obligations. All revenue bonds,

239 notes, and other obligations shall be authorized by resolution of the authority and adopted
240 by a majority vote of the directors of the authority at a regular or special meeting. Such
241 revenue bonds, notes, or other obligations shall bear such date or dates; shall mature at such
242 time or times not more than 40 years from their respective dates; shall bear interest at such
243 rate or rates, which may be fixed or may fluctuate or otherwise change from time to time;
244 shall be subject to redemption on such terms; and shall contain such other terms, provisions,
245 covenants, assignments, and conditions as the resolution authorizing the issuance of such
246 bonds, notes, or other obligations may permit or provide. The terms, provisions, covenants,
247 assignments, and conditions contained in or provided or permitted by any resolution of the
248 authority authorizing the issuance of such revenue bonds, notes, or other obligations shall
249 bind the directors of the authority then in office and their successors. The authority shall
250 have power from time to time and whenever it deems expedient to refund any bonds by the
251 issuance of new bonds, whether the bonds to be refunded have or have not matured, and may
252 issue bonds partly to refund bonds then outstanding and partly for any other purpose
253 permitted under this Act. The refunding bonds may be exchanged for the bonds to be
254 refunded with such cash adjustments as may be agreed upon or may be sold and the proceeds
255 applied to the purchase or redemption of the bonds to be refunded. There shall be no
256 limitation upon the amount of revenue bonds, notes, or other obligations which the authority
257 may issue. Any limitations with respect to interest rates or any maximum interest rate or
258 rates found in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law,"
259 as now or hereafter amended, the usury laws of the State of Georgia, or any other laws of the
260 State of Georgia shall not apply to revenue bonds, notes, or other obligations of an authority.

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SECTION 7.

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Provisions and obligations; limitations and procedures.

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(a) Subject to the limitations and procedures provided by this section, the agreements or instruments executed by the authority may contain such provisions not inconsistent with law as shall be determined by the board of directors of the authority.

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(b) The proceeds derived from the sale of all bonds, notes, and other obligations issued by the authority shall be held and used for the ultimate purpose of paying, directly or indirectly as permitted in this Act, all or part of the cost of any project or for the purpose of refunding any bonds, notes, or other obligations issued in accordance with the provisions of this Act.

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(c) Issuance by an authority of one or more series of bonds, notes, or other obligations for one or more purposes shall not preclude it from issuing other bonds, notes, or other obligations in connection with the same project or with any other projects, but the proceeding wherein any subsequent bonds, notes, or other obligations shall be issued shall recognize and protect any prior loan agreement, mortgage, deed to secure debt, trust deed, security agreement, or other agreement or instrument made for any prior issue of bonds, notes, or other obligations unless in the resolution authorizing such prior issue the right is expressly reserved to the authority to issue subsequent bonds, notes, or other obligations on a parity with such prior issue.

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(d) The authority shall have the power and is authorized, whenever bonds of the authority shall have been validated as provided in this Act, to issue from time to time its notes in anticipation of such bonds as validated and to renew from time to time any such notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue such bond anticipation notes only to provide funds which would otherwise be provided by the issuance of the bonds as validated. Such notes may be authorized, sold, executed, and delivered in the same manner as bonds. As with its bonds,

287 the authority may sell such notes at public or private sale. Any resolution or resolutions
288 authorizing notes of the authority or any issue thereof may contain any provisions which
289 the authority is authorized to include in any resolution or resolutions authorizing bonds of
290 the authority or any issue thereof, and the authority may include in any notes any terms,
291 covenants, or conditions which the authority is authorized to include in any bonds.
292 Validation of such bonds shall be a condition precedent to the issuance of such notes, but
293 it shall not be required that such notes be judicially validated. Bond anticipation notes shall
294 not be issued in an amount exceeding the par value of the bonds in anticipation of which
295 they are to be issued.

296 (e) All bonds issued by the authority under this Act shall be issued and validated under and
297 in accordance with the Revenue Bond Law, as heretofore and hereafter amended, except
298 as provided in this Act, provided that notes and other obligations of the authority may, but
299 shall not be required to, be so validated.

300 (f) Bonds issued by an authority may be in such form, either coupon or fully registered or
301 both, and may be subject to exchangeability and transferability provisions as the bond
302 resolution authorizing the issuance of such bonds or any indenture or trust agreement may
303 provide.

304 (g) Bonds shall bear a certificate of validation. The signature of the clerk of the superior
305 court of the judicial circuit in which the issuing authority is located may be made on the
306 certificate of validation of such bonds by facsimile or by manual execution stating the date
307 on which such bonds were validated, and such entry shall be original evidence of the fact
308 of judgment and shall be received as original evidence in any court in this state.

309 (h) In lieu of specifying the rate or rates of interest which bonds to be issued by an
310 authority are to bear, the notice to the district attorney or Attorney General; the notice to
311 the public of the time, place, and date of the validation hearing; and the petition and
312 complaint for validation may state that the bonds when issued shall bear interest at a rate
313 not exceeding a maximum per annum rate of interest (which may be fixed or may fluctuate

314 or otherwise change from time to time) specified in such notices and petition and complaint
315 or that, in the event the bonds are to bear different rates of interest for different maturity
316 dates, that none of such rates shall exceed the maximum rate (which may be fixed or may
317 fluctuate or otherwise change from time to time) so specified; provided, however, that
318 nothing contained in this Act shall be construed as prohibiting or restricting the right of the
319 authority to sell such bonds at a discount, even if in doing so the effective interest cost
320 resulting therefrom would exceed the maximum per annum interest rate specified in such
321 notices and in the petition and complaint.

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SECTION 8.

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Purpose and declaration of need.

324 The revitalization and redevelopment of the development area as defined in this Act shall
325 develop and promote trade, commerce, industry, and employment opportunities for the public
326 good and general welfare and promote the general welfare of the state by creating a climate
327 favorable to the location of new industry, trade, and commerce and the development of
328 existing industry, trade, and commerce within the development area and the State of Georgia.
329 Revitalization and redevelopment of the development area by financing projects under this
330 Act shall develop and promote, for the public good and general welfare, trade, commerce,
331 industry, employment opportunities, and the general welfare of the state. It is therefore in
332 the public interest and is vital to the public welfare of the people of Georgia, and it is
333 declared to be the public purpose of this Act, to so revitalize and redevelop the development
334 area. No bonds, notes, or other obligations (except refunding bonds) shall be issued by the
335 authority hereunder unless its board of directors adopts a resolution finding that the project
336 for which such bonds, notes, or other obligations are to be issued shall promote the foregoing
337 objectives.

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SECTION 9.

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Construction of Act.

340 The provisions of this Act shall be liberally construed to effect the purpose hereof. The offer,
341 sale, or issuance of bonds, notes, or other obligations by any authority shall not be subject
342 to regulation under Georgia laws regulating the sale of securities, as heretofore and hereafter
343 amended. No notice, proceeding, or publication except those required by this Act shall be
344 necessary to the performance of any act authorized by this Act nor shall any such act be
345 subject to referendum.

346

SECTION 10.

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Bonds, notes, and other obligations not to constitute public debt.

348 No bonds, notes, or other obligations of and no indebtedness incurred by the authority shall
349 constitute an indebtedness or obligation of the State of Georgia or any county, municipal
350 corporation, or political subdivision thereof nor shall any act of the authority in any manner
351 constitute or result in the creation of an indebtedness of the state or any such county,
352 municipal corporation, or political subdivision. No holder or holders of any such bonds,
353 notes, or other obligations shall ever have the right to compel any exercise of the taxing
354 power of the state or any county, municipal corporation, or political subdivision thereof or
355 to enforce the payment thereof against the state or any such county, municipal corporation,
356 or political subdivision.

357 **SECTION 11.**

358 Constitutional authority for Act; tax exemption of authorities.

359 (a) This Act is enacted pursuant to Article IX, Section VI, Paragraph III of the Constitution
360 of Georgia.

361 (b) The obligations, properties, activities, and income of the authority shall be subject to
362 such tax exemptions as may be provided by the Constitution or general law.

363 **SECTION 12.**

364 Effect on other authorities.

365 This Act shall not affect any development authority activated by the City of Alpharetta, the
366 City of Johns Creek, the City of Milton, the City of Mountain Park, the City of Roswell, or
367 the City of Sandy Springs now or hereafter existing under general or local constitutional
368 amendment or general or local law.

369 **SECTION 13.**

370 Repealer.

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