

House Bill 1114 (AS PASSED HOUSE AND SENATE)

By: Representatives Jones of the 167th and Atwood of the 179th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act creating the Brunswick-Glynn County Joint Water and Sewer Commission,
2 approved April 19, 2006 (Ga. L. 2006, p. 3661), as amended, particularly by an Act approved
3 April 11, 2012 (Ga. L. 2012, p. 5287), so as to provide immunity and exemption from
4 liability for the commission; to change provisions relating to the terms of office,
5 appointment, and election procedures, including nonpartisan elections, of members of the
6 commission; to provide for notices and hearings regarding stipends of members of the
7 commission; to require display of the commission's operating budget on the commission's
8 website; to authorize enforcement of ordinances; to provide for solicitation and acceptance
9 of donations and administration of same, including separate accounting and expenditure of
10 excess funds; to provide for assistance to customers in financial hardship and low-income
11 customers; to change procedures regarding the setting of customer rates; to provide for
12 related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

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

18 "SECTION 2.

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

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

31 **SECTION 2.**

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

33 "SECTION 4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

160 **SECTION 3.**

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

162 "SECTION 7.

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

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

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

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

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

276 **SECTION 4.**

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

278 **"SECTION 7A.**

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

297 **SECTION 5.**

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