

House Bill 625 (AS PASSED HOUSE AND SENATE)

By: Representatives Rhodes of the 120th, Powell of the 32nd, and Leverett of the 33rd

A BILL TO BE ENTITLED
AN ACT

1 To create the Tri-County Natural Gas Authority; to provide for a short title; to confer powers
2 and impose duties on the authority; to provide for definitions; to provide for the membership
3 and the appointment of members of the authority and their terms of office, qualifications,
4 duties, powers, and compensation; to provide for vacancies, organization, meetings, and
5 expenses; to provide for activation of the authority; to provide for the transfer of property and
6 employees to the authority; to authorize the issuance of revenue bonds of the authority; to
7 provide for moneys received and trust funds; to fix and provide the venue and jurisdiction
8 of actions relating to any provisions of this Act; to provide for tax exemption, rates, charges,
9 and revenues; to provide for tort immunity; to provide contracting requirements; to provide
10 for supplemental powers; to deny taxing powers; to provide for construction of act and
11 severability; 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 "Tri-County Natural Gas Authority Act."

SECTION 2.

Tri-County Natural Gas Authority; creation.

There is hereby created a public body corporate and politic to be known as the "Tri-County Natural Gas Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style, and title such body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity. The authority shall have perpetual existence. All property owned by such corporation shall be public property held and owned for governmental purposes and shall be exempt from taxation as provided by law.

SECTION 3.

Definitions.

As used in this Act, the following words and terms shall have the following meanings unless a different meaning clearly appears from the context:

(1) "Authority" shall mean the Tri-County Natural Gas Authority created in this Act.

(2) "Cities" shall mean both the City of Greensboro and the City of Union Point.

(3) "City" shall mean the City of Greensboro or the City of Union Point, depending on the context.

(4) "Cost of the project" shall include the cost of construction, the cost of all lands, properties, rights, easements, and franchises acquired, the cost of buildings, improvements, materials, labor, and services contracted for, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after the completion of construction, engineering, architectural, fiscal, accounting, inspection, and legal expenses, cost of plans and specifications, and other expenses necessary or incident to determining the feasibility or practicability of the project,

40 administrative expenses, and such other expenses as may be necessary or incident to the
41 financing herein authorized, the acquisition, construction, renovation, reconstruction, or
42 remodeling of any project, the placing of the same in operation, and the condemnation
43 of property necessary for such construction and operation. Any obligation or expense
44 incurred for any of the foregoing purposes shall be regarded as a part of the cost of the
45 project and may be paid or reimbursed as such out of any funds of the authority,
46 including proceeds of any revenue bonds issued under the provisions of this Act for any
47 such project or projects and the proceeds of the sale of any contracts, lease agreements,
48 or installment sale agreements or the amounts payable thereunder, either directly or by
49 the creation of interests therein.

50 (5) "Project" means and includes the planning, design, acquisition, construction, and
51 management of natural gas supply and distribution facilities; the acquisition of personal
52 and real property necessary to carry out the authority's function to provide natural gas to
53 the customers in its territory; and the management, operation, maintenance, additions,
54 improvements, and extensions of such facilities so as to assure adequate natural gas
55 distribution systems deemed by the authority to be necessary or convenient for the
56 efficient operation of such undertaking.

57 (6) "Revenue bond" shall mean bonds issued by the authority pursuant to the Revenue
58 Bond Law.

59 (7) "Revenue Bond Law" shall mean Article 3 of Chapter 82 of Title 36 of the O.C.G.A.

60 (8) "Service Delivery Area" means area is that in which the cities are on the effective
61 date of this Act, or the authority in the future is, authorized to provide natural gas utility
62 service according to the relevant county-wide safety plans for the counties in which the
63 cities are authorized to operate on the effective date of this Act.

64 (9) "Superintendent" shall mean the person employed by the authority to manage the
65 day-to-day operations of the authority, including the supervision and direction of its
66 employees.

SECTION 5.

General powers.

91 The authority shall have the power:

92 (1) To provide natural gas services within the service delivery area in the same manner
93 as such services are provided by the cities on the effective date of this Act.

94 (2) To hold, own, and convey real and personal property;

95 (3) To sue and be sued;

96 (4) To have and to use a seal and to alter the same at pleasure;

97 (5) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell
98 any project as hereinafter defined;

99 (6) To acquire in its own name by purchase on such terms and conditions and in such
100 manner as it may deem proper;

101 (7) To accept gifts and bequests for its corporate purposes;

102 (8) To appoint, select, and employ officers, agents, and employees, including the
103 superintendent, engineering, architectural, and construction experts, fiscal agents, and
104 attorneys, and to fix their compensation;

105 (9) To make and execute with public and private persons and corporations contracts,
106 lease agreements, rental agreements, installment sale agreements, and other instruments
107 relating to its projects and incident to the exercise of the powers of the authority,
108 including contracts for constructing, renting, leasing, and selling its projects for the
109 benefit of the cities;

110 (10) To sell or assign its rights under its contracts, lease agreements, or installment sale
111 agreements or its right to receive payments thereunder, either directly or through trust or
112 custodial arrangements whereby interests are created in such contracts, lease agreements,
113 or installment sale agreements or the payments to be received thereunder through the

114 issuance of trust certificates, certificates of participation, custodial receipts, or other
115 similar instruments;

116 (11) To accept loans and grants of money or property of any kind from the United States,
117 the State of Georgia, or any political subdivision of the State of Georgia;

118 (12) To borrow money for any of its corporate purposes and to issue revenue bonds
119 payable solely from funds or revenues of the authority pledged for that purpose and to
120 pledge and assign any of its revenues, income, rent, charges, and fees to provide for the
121 payment of the same and to provide for the rights of the holders of such revenue bonds;

122 (13) To make such rules and regulations governing its employees and property as it may
123 in its discretion deem proper; and

124 (14) To do all things necessary or convenient to carry out the powers expressly given in
125 this Act.

126 **SECTION 6.**

127 Activation by intergovernmental agreement.

128 (a) The authority shall be inactive until, the cities enter into an intergovernmental agreement,
129 pursuant to Article IX, Section III, Paragraph I of the Constitution of Georgia, that provides
130 for the particulars of the operation of the authority. Such agreement shall include, but need
131 not be limited to, provisions governing revenue and expense sharing. The cities may freely
132 amend any such agreement entered into pursuant to this section as permitted by law.

133 (b) Until such time as an agreement as provided for in subsection (a) of this section is
134 executed, the authority shall be inactive, and the authority shall only become active upon the
135 execution of such agreement. Such agreement may designate a certain time and date for the
136 authority to become active.

137 (c) The failure of the cities to execute such agreement shall in no way void or nullify this
138 Act. Instead, the failure of the cities to execute such an agreement shall merely render the
139 authority inactive until such an agreement is executed.

140 **SECTION 7.**

141 Transfer of property and employees.

142 (a) Upon activation of the authority as provided for in Section 6 of this Act, each city, either
143 jointly or independently, may enter into an intergovernmental agreement, pursuant to Article
144 IX, Section III, Paragraph I of the Constitution of Georgia, which may provide for those city
145 employees, if any, who will be employed the authority, and that such employees shall cease
146 to be employed by that city and shall become employees of the authority. Such agreement
147 or agreements may provide for the transfer of title of the city's or cities' natural gas
148 distribution facilities, vehicles, and equipment to the authority.

149 (b) Nothing herein shall require any such agreement; and the cities at their discretion may
150 retain any employees, and then allow such employees to work for authority under contract.

151 (c) If the authority shall deem it expedient to construct any project on real property which
152 is subject to the control of one of the cities, such city may convey such real property to the
153 authority for such consideration as may be agreed upon by the authority and the city, taking
154 into consideration the public benefit to be derived from such conveyance.

155 **SECTION 8.**

156 Revenue bonds.

157 The authority shall have power and is authorized, pursuant to the Revenue Bond Law, to
158 provide by resolution for the issuance of revenue bonds of the authority for the purpose of
159 paying all or any part of the costs of a project and for the purpose of refunding revenue bonds
160 or other obligations previously issued. Revenue bonds shall be undertaken, issued, priced,
161 validated, sold, paid, redeemed, refunded, secured, and replaced in accordance with the
162 provisions of the Revenue Bond Law. The principal of and interest on such revenue bonds
163 shall be payable solely from such part of the revenues and earnings of such project or
164 projects as may be designated in the resolution of the authority authorizing the issuance of
165 such revenue bonds.

166 **SECTION 9.**

167 Revenue bonds; conditions precedent to issuance.

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

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SECTION 10.

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Credit not pledged.

179 Revenue bonds of the authority shall not be deemed to constitute a debt of the City of
180 Greensboro, the City of Union Point, the State of Georgia, or any other county or
181 municipality of the State of Georgia, nor a pledge of the faith and credit of this state or such
182 municipalities, but such revenue bonds shall be payable solely from the fund hereinafter
183 provided for. The issuance of such revenue bonds shall not directly, indirectly, or
184 contingently obligate this state or such county to levy or pledge any form of taxation
185 whatsoever for payment of such revenue bonds or to make any appropriation for their
186 payment, and all such revenue bonds shall contain recitals on their face covering
187 substantially such foregoing provisions of this section. Notwithstanding the foregoing
188 provisions, this Act shall not affect the ability of the authority and any political subdivision
189 to enter into an intergovernmental contract pursuant to which the political subdivision agrees
190 to pay amounts sufficient to pay operating charges and other costs of the authority or any
191 project including, without limitation, the principal of and interest on revenue bonds in
192 consideration for services or facilities of the authority.

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SECTION 11.

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Revenue bonds; trust indenture as security.

195 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
196 indenture by and between the authority and a corporate trustee, which may be any trust
197 company or bank having the powers of a trust company within or without this state. Either
198 the resolution providing for the issuance of the revenue bonds or such trust indenture may
199 contain such provisions for protecting and enforcing the rights and remedies of the
200 bondholders as may be reasonable and proper and not in violation of law, including

201 covenants setting forth the duties of the authority in relation to the acquisition and
202 construction of the project, the maintenance, operation, repair, and insuring of the project,
203 and the custody, safeguarding, and application of all money.

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SECTION 12.

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Trust indenture as security; remedies of bondholders.

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

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SECTION 13.

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To whom proceeds of bonds shall be paid.

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

223 **SECTION 14.**224 **Sinking fund.**

225 The money received pursuant to an intergovernmental contract and the revenues, fees, tolls,
226 fines, charges, and earnings derived from any particular project or projects, regardless of
227 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
228 particular project for which revenue bonds have been issued, unless otherwise pledged and
229 allocated, may be pledged and allocated by the authority to the payment of the principal and
230 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
231 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever
232 source received may be set aside at regular intervals as may be provided in the resolution or
233 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
234 the payment of:

- 235 (1) The interest upon such revenue bonds as the same shall fall due;
236 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
237 (3) Any premium upon such revenue bonds as the same shall fall due;
238 (4) The purchase of such revenue bonds in the open market; and
239 (5) The necessary charges of the paying agent for paying principal and interest.

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

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SECTION 15.

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Interest of bondholders protected.

247 While any of the revenue bonds issued by the authority remain outstanding, the powers,
248 duties, or existence of such authority or its officers, employees, or agents shall not be
249 diminished or impaired in any manner that will affect adversely the interests and rights of the
250 holders of such revenue bonds; and no other entity, department, agency, or authority shall
251 be created which will compete with the authority to such an extent as to affect adversely the
252 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete
253 with the authority. The provisions of this Act shall be for the benefit of the authority and the
254 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
255 provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

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SECTION 16.

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Money received considered trust funds.

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

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SECTION 17.

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Venue; jurisdiction; service.

263 The principal office of the authority shall be in Greene County, Georgia, and unless
264 otherwise provided in general law, the venue of any action against it shall be in Greene
265 County. Any action pertaining to the validation of any bonds issued under the provisions of
266 this Act and the validation of any contract entered into by the authority shall be brought in

267 the Superior Court of Greene County, and such court shall have exclusive original
268 jurisdiction of such actions. Service upon the authority of any process, subpoena, or
269 summons shall be effected by serving the same personally upon any member of the authority.

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SECTION 18.

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Rates, charges, and revenues of projects.

272 The authority is hereby authorized to prescribe, fix, and collect rates, fees, tolls, rents, and
273 charges and to revise, from time to time, and collect such revised rates, fees, tolls, rents, and
274 charges for the services, facilities, or commodities furnished, including leases, concessions,
275 or subleases of its projects, and to determine the price and terms at and under which its
276 projects may be sold. The authority shall be exempt from regulation by the Georgia Public
277 Service Commission to the same extent as a municipality and will be treated in all respects
278 like a municipality for purposes of law or regulation related directly to natural gas
279 distribution facilities and service.

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SECTION 19.

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Tax exemption.

282 The income of the authority, the properties of the authority, both real and personal, and all
283 revenue bonds, certificates of participation, notes, and other forms of obligations issued by
284 the authority shall be exempt from all state and local taxes and special assessments of any
285 kind to the extent permitted by and in accordance with the general laws of the state.

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SECTION 20.

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Immunity from tort actions.

288 To the extent permitted by law, the authority shall have the same immunity and exemption
289 from liability for torts and negligence as a municipality; and the officers, agents, and
290 employees of the authority when in the performance of the work of the authority shall have
291 the same immunity and exemption from liability for torts and negligence as the officers,
292 agents, and employees of a municipality when in the performance of their public duties or
293 work of the municipality.

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SECTION 21.

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Contracts.

296 The authority may be sued the same as any private corporations on any contractual obligation
297 of the authority, so long as the contractual obligation is set forth in a writing, approved by
298 the board of the authority during a meeting, and entered into the minutes of the board.

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SECTION 22.

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Property not subject to levy and sale.

301 The property of the authority shall not be subject to levy and sale under legal process.

302 **SECTION 23.**

303 Powers declared supplemental and additional.

304 This Act shall be deemed to provide an additional and alternative method of carrying out the
305 duties authorized hereby, shall be regarded as supplemental and additional to powers
306 conferred to the cities by other laws, and shall not be regarded as being in derogation of any
307 powers now existing.

308 **SECTION 24.**

309 Authority without taxing power.

310 The authority shall not have the power to levy, impose, or collect any tax on any person or
311 property.

312 **SECTION 25.**

313 Liberal construction of Act.

314 This Act shall be liberally construed to effect the purposes hereof.

315 **SECTION 26.**

316 Severability; effect of partial invalidity of Act.

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

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SECTION 27.

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General repealer.

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