House Bill 762 (AS PASSED HOUSE AND SENATE)
By: Representatives Mainor of the 56th, Thomas of the 65th, Evans of the 57th, Roberts of the 52nd, Moore of the 95th, and others

A BILL TO BE ENTITLED
AN ACT

To create the Fulton Technology and Energy Enhancement Authority; to provide a statement of legislative findings; to provide for a short title; to define certain terms; to provide for the appointment of members of the authority; to provide for quorums and filling of vacancies; to provide for dissolution of the authority upon certain conditions; to confer powers upon the authority; to provide for purpose and scope of operations of the authority; to provide for definitions; to authorize the issuance of revenue bonds of the authority; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide for moneys received and trust funds; to provide for tort immunity; to provide for tax exemption, rates, charges, and revenues; to provide for effect on other governments; to provide for construction of this Act and severability; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
SECTION 1.

Short title.

This Act shall be known and may be cited as the "Fulton Technology and Energy Enhancement Authority."

SECTION 2.

Legislative findings.

(1) The General Assembly finds that while the Fulton County is a world renowned center of technological innovation, pockets exist throughout the county where technological and energy resources are extremely lacking. These deficiencies hinder the development or redevelopment of these pockets and lock the residents of these pockets into poverty by denying them the opportunity for prosperity and great wealth like other areas of the county.

(2) While agencies and programs now exist for the purposes of commercial development, elimination of blight, community improvement, improving education and workforce development resources, and the alleviation of poverty, none of those programs are designed to provide specific assistance in improving the technological and energy resources and reducing the energy burden of residents in these pockets.

(3) It is the intent of the General Assembly in creating the Fulton Technology and Energy Enhancement Authority to establish an entity capable of identifying, targeting, and alleviating the specific elements relating to the underdevelopment of technological resources and energy burdens which are causing poverty, increased unemployment rates, and statistics comparable to failing school rates and underdevelopment in these pockets and develop programs to address them.
(4) It is further the purpose of the authority to significantly reduce poverty in the communities west of the main campus of the Georgia Institute of Technology by simultaneously creating jobs in the nontraditional trades of technology and energy.

SECTION 3.

Fulton Technology and Energy Enhancement Authority.

(a) There is created a public body corporate and politic to be known as the "Fulton Technology and Energy Enhancement Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style, and title said 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.

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

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

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

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

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

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

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

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

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

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

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

(g) The authority shall stand dissolved upon the area of operation no longer being deemed a high energy burden area by the authority, high school graduation rates for residents of the area of operation is 90 percent of the graduation rate of the high school operated by an independent school system in the county with the highest graduation rate, no more than 20 percent of the residents of the area of operation live below the national poverty level, and the reading level of third grade students is at least 85 percent of the countywide average reading level for such students.
SECTION 4.
Definitions.

As used in this Act, the term:

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Technology or energy development project" means a project developed by the authority to improve the business, commercial, and residential technological or energy infrastructure in the area of operation. Such project shall be designed according to the specific problems and needs of the area addressed and may, without limitation, be designed to eliminate blight, encourage the establishment or growth of commercial or residential endeavors, or improve the quality of life in such area through the creation of affordable energy facilities and programs.
SECTION 5.

Powers.

The authority shall have the power:

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

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

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

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

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

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

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

(8) To contract for the construction of renewable energy infrastructure and buildings and facilities, including but not limited to green buildings or facilities, and to use, sell, or lease such infrastructure, buildings, products, and facilities to accomplish the purposes of the authority;
(9) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper, property for public use, real property or rights or easements therein, or franchises necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue, and to lease or make contracts with respect to the use of or dispose of the same in any manner it deems to the best advantage of the authority, and no property shall be acquired under the provisions of this Act upon which any lien or encumbrance exists, unless at the time such property is so acquired a sufficient sum of money is to be deposited in trust to pay and redeem the fair value of such lien or encumbrances;

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

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

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

(13) To pay the costs of the project with the proceeds of revenue bonds or other obligations issued by the authority or from any grant or contribution from the United States of America or any agency or instrumentality thereof or from the state or any agency or instrumentality or other political subdivision thereof or from any other source whatsoever;
(14) To borrow money for any of its corporate purposes and to issue revenue bonds, and
to provide for the payment of the same and for the rights of the holders thereof;
(15) To exercise any power usually possessed by private corporations performing similar
functions, including the power to incur short-term debt and to approve, execute, and
deliver appropriate evidence of any such indebtedness; and
(16) To do all things necessary or convenient to carry out the powers expressly given in
this Act.

SECTION 6.
Meetings and public hearings.

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

SECTION 7.
Revenue bonds.

The authority, or any authority or body which has or which may in the future succeed to the
powers, duties, and liabilities vested in the authority created by this Act, shall have power
and is authorized, pursuant to the Revenue Bond Law, to provide by resolution for the
issuance of revenue bonds of the authority for the purpose of paying all or any part of the
costs of a project and for the purpose of refunding revenue bonds or other obligations
previously issued. Revenue bonds shall be undertaken, issued, priced, validated, sold, paid,
redeemed, refunded, secured, and replaced in accordance with the provisions of the Revenue
Bond Law.
SECTION 8.

Revenue bonds; conditions precedent to issuance.

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

SECTION 9.

Credit not pledged.

Revenue bonds of the authority shall not be deemed to constitute a debt of the county or the State of Georgia, nor a pledge of the faith and credit of this state or such county, but such revenue bonds shall be payable solely from the fund hereinafter provided for. The issuance of such revenue bonds shall not directly, indirectly, or contingently obligate this state or such county to levy or pledge any form of taxation whatsoever for payment of such revenue bonds or to make any appropriation for their payment, and all such revenue bonds shall contain recitals on their face covering substantially the foregoing provisions of this section.
SECTION 10.

Trust indenture as security.

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

SECTION 11.

Trust indenture as security; remedies of bondholders.

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

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SECTION 12.

Trust indenture as security; validation.

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

SECTION 13.

To whom proceeds of bonds shall be paid.

In the resolution providing for the issuance of revenue bonds or in the trust indenture, the authority shall provide for the payment of the proceeds of the sale of the revenue bonds to any officer or person who, or any agency, bank, or trust company which, shall act as trustee of such funds and shall hold and apply the same to the purposes thereof, subject to such regulations as this Act and such resolution or trust indenture may provide.
SECTION 14.

Sinking fund.

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

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

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds without distinction or priority of one over another.
SECTION 15.

Venue and jurisdiction.

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

SECTION 16.

Interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of such authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such revenue bonds; and no other entity, department, agency, or authority shall be created which will compete with the authority to such an extent as to affect adversely the interests and rights of the holders of such revenue bonds, nor shall the state itself so compete with the authority. The provisions of this Act shall be for the benefit of the authority and the holders of any such revenue bonds, and upon the issuance of such revenue bonds under the provisions of this Act, shall constitute a contract with the holders of such revenue bonds.
SECTION 17.
Money received considered trust funds.

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

SECTION 18.
Purpose of the authority; reversion upon dissolution.

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

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

SECTION 19.
Rates, charges, and revenues; use.

The authority is hereby authorized to prescribe and fix rates and to revise same from time to time and to collect revenues, tolls, fees, and charges for the services, facilities, and commodities furnished and, in anticipation of the collection of the revenues, to issue revenue bonds or other types of obligations as provided in this Act to finance, in whole or in part, the costs of the project and to pledge to the punctual payment of said revenue bonds or other obligations all or any part of the revenues.
SECTION 20.

Rules, regulations, service policies, and procedures for operation of projects.

It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations, service policies, and procedures for the operation of any project or projects constructed or acquired under the provisions of this Act. The authority may adopt bylaws.

SECTION 21.

Tort immunity.

To the extent permitted by law, the authority shall have the same immunity and exemption from liability for torts and negligence as the county; and the officers, agents, and employees of the authority when in the performance of the work of the authority shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of the county when in the performance of their public duties or work of the county.

SECTION 22.

Tax exemption.

The income of the authority, the properties of the authority, both real and personal, and all revenue bonds, certificates of participation, notes, and other forms of obligations issued by the authority shall be exempt from all state and local taxes and special assessments of any kind to the extent permitted by and in accordance with the general laws of the state.
SECTION 23.
Effect on other governments.

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

SECTION 24.
Liberal construction of Act.

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

SECTION 25.
Severability; effect of partial invalidity of Act.

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

SECTION 26.
Purpose of the authority.

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

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SECTION 27.

Effective date.

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

SECTION 28.

Repealer.

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