

House Bill 201 (AS PASSED HOUSE AND SENATE)

By: Representative Taylor of the 173rd

A BILL TO BE ENTITLED
AN ACT

1 To create the Grady County Lake Authority; to provide a short title; to provide a declaration
2 of need and purpose; to provide for the membership and appointment of members of the
3 authority and their terms of office, duties, powers, and compensation; to provide for a
4 quorum, vacancies, organization, and expenses; to define certain terms; to confer powers and
5 impose duties on the authority; to provide for revenue bonds and their form, negotiability,
6 and sale and use of the proceeds from such sales; to provide for conditions for issuance; to
7 provide for trust agreements as security for revenue bonds; to provide for sinking funds; to
8 provide for payment of bond proceeds; to provide for bondholder remedies and protection;
9 to provide for refunding bonds; to provide for bond validation; to provide that certain moneys
10 will be trust funds; to provide for conveyance of property upon dissolution; to provide for
11 venue and jurisdiction; to provide for venue of actions relating to any provisions of this Act;
12 to provide for tort immunity; to provide for exemptions from certain taxes; to provide for
13 liberal construction; to provide for related matters; to provide for an effective date; to repeal
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Short title.

18 This Act shall be known and may be cited as the Grady County Lake Authority Act.

19 **SECTION 2.**

20 Creation of authority; members.

21 (a) There is created a body corporate and politic to be known as the Grady County Lake
22 Authority, which shall be deemed to be a political subdivision of the state and a public
23 corporation and instrumentality by that name, style, and title, and said body may contract and

24 be contracted with, sue and be sued, implead and be impleaded, and complain and defend in
25 all courts of law and equity, except that the authority or the trustee acting under a trust
26 indenture shall in no event be liable for any torts committed by any of the officers, agents,
27 and employees of the authority. The authority shall not be a state institution, nor a
28 department or agency of the state. The authority is granted the same exemptions and
29 exclusions from taxes as are now granted to cities and counties for the operation of facilities
30 similar to facilities to be operated by the authority as provided under the provisions of this
31 Act. The authority shall have its principal office in Grady County, and its legal situs or
32 residence for the purpose of this Act shall be Grady County.

33 (b) The authority shall consist of seven members who shall be eligible to succeed themselves
34 and who shall be elected by the Board of Commissioners of Grady County. At least one
35 member, and no more than two members, of the authority shall be a member of said board
36 of commissioners. Any member of the authority who is a member of said board of
37 commissioners shall serve for a term of office concurrent with such person's term of office
38 as a member of said board of commissioners. Each member of the authority who is not a
39 member of said board of commissioners shall serve for a term of office of three years, except
40 that the initial terms of office of those members first appointed to the authority shall be
41 specified at the time of appointment to be one, two, or three years. After such initial terms,
42 those members who are not members of said board of commissioners shall serve for terms
43 of office of three years each. Members of the authority shall serve for the terms of office so
44 specified and until the appointment and qualification of their respective successors.
45 Vacancies on the authority shall be filled by said board of commissioners for the remainder
46 of the unexpired term and until the appointment and qualification of a successor.
47 Immediately after their election, the members of the authority shall enter upon their duties.
48 The authority shall elect one of its members as chairperson and one as vice chairperson. The
49 secretary-treasurer of the authority shall be appointed by the authority and need not be a
50 member of the authority. Four members of the authority shall constitute a quorum, and no
51 vacancy on the authority shall impair the right of the quorum to exercise all the rights and
52 perform all the duties of the authority; and, in every instance, a majority vote of a quorum
53 shall authorize any legal act of the authority, including all things necessary to authorize and
54 issue revenue bonds. The members of the authority shall receive no compensation for their
55 services but may be reimbursed by the authority for their actual expenses properly incurred
56 in the performance of their duties. The authority shall make rules and regulations for its own
57 government and shall have perpetual existence.

58

SECTION 3.

59

Declaration of need and purpose.

60 Without limiting the generality of any provisions of this Act, the general purpose of the
 61 authority shall be to acquire, construct, equip, maintain, and operate certain projects for use
 62 by Grady County and other political subdivisions, municipalities, agencies, and authorities
 63 of the county for its governmental, proprietary, public, and administrative services, facilities,
 64 and functions.

65

SECTION 4.

66

Definitions.

67 As used in this Act, the term:

68 (1) "Authority" means the Grady County Lake Authority created in Section 2 of this Act.

69 (2) "Cost of the project" or "cost" means the cost of construction; the cost of all
 70 equipment, lands, properties, rights, easements, and franchises acquired and the cost of
 71 all conveyances of the authority's title thereto and leases thereof; the cost of all machinery
 72 and equipment and financing charges and interest prior to and during construction and
 73 for one year after completion of construction; the cost of engineering, architectural, fiscal,
 74 and legal expenses and of plans and specifications and other expenses necessary or
 75 incident to determining the feasibility or practicability of the project; administrative
 76 expenses and such other expenses as may be necessary or incident to the financing
 77 authorized by this Act; and the acquisition and construction of any project, the placing
 78 of the same in operation, and the condemnation of property necessary for such
 79 construction and operation. Any obligation or expense incurred for any of the foregoing
 80 purposes shall be regarded as a part of the cost of the project and may be paid or
 81 reimbursed as such out of the proceeds of revenue bonds or notes issued under the
 82 provisions of this Act for such project.

83 (3) "Project" means and includes the acquisition, construction, equipping, maintenance,
 84 and operation of any undertaking as defined in Code Section 36-82-61 of the O.C.G.A.;
 85 any undertaking, project, or service for which the governmental body contracting with
 86 the authority is authorized by law to undertake in the performance of its governmental,
 87 proprietary, or administrative functions; all personal property to be used in connection
 88 therewith; and the lease and sale of any part or all of such facilities, including real and
 89 personal property, so as to ensure the efficient and proper development, maintenance, and
 90 operation of such project deemed by the authority to be necessary, convenient, or
 91 desirable. A project may be composed exclusively of real or personal property,

92 equipment, fixtures, machinery, or other property of any nature whatsoever used or useful
 93 in connection with the governmental, administrative, and proprietary functions of any
 94 governmental body contracting with the authority for its services or facilities.

95 (4) "Revenue bonds," "bonds," and "obligations" means revenue bonds or obligations as
 96 provided for in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond
 97 Law," as amended, and obligations of the authority the issuance of which are provided
 98 for in this Act.

99 (5) "Self-liquidating" means the revenues and earnings of any project to be derived by
 100 the authority therefrom, and all properties used, leased, and sold in connection therewith
 101 will be sufficient, in the judgment of the authority, to pay the cost of operating,
 102 maintaining, repairing, improving, and extending the project and to pay the principal of
 103 and interest on the revenue bonds or notes which may be issued to finance, in whole or
 104 in part, the cost of such project.

105 (6) "State" means the State of Georgia.

106 SECTION 5.

107 Powers.

108 The authority shall have the power:

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

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

113 (3) To acquire in its own name by purchase, on such terms and conditions and in such
 114 manner as it may deem proper, or by condemnation, in accordance with the provisions
 115 of any and all existing laws applicable to the condemnation of property for public use,
 116 real property, rights, or easements therein or franchises necessary or convenient for its
 117 corporate purposes; to use the same so long as its corporate existence shall continue; to
 118 lease or make contracts with respect to the use of or to dispose of the same in any manner
 119 it deems to the best advantage of the authority, the authority being under no obligation
 120 to accept and pay for any property condemned under this Act except from the funds
 121 provided under the authority of this Act; and in any proceedings to condemn, such orders
 122 may be made by the court having jurisdiction of the suit, action, or proceedings as may
 123 be just to the authority and to the owners of the property to be condemned; provided,
 124 however, that no property shall be acquired under the provisions of this Act upon which
 125 any lien or other encumbrance exists, unless at the time such property is so acquired a

126 sufficient sum of money is deposited in trust to pay and redeem the fair value of such lien
127 or encumbrance;

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

131 (5) To make and execute contracts, leases, installment sales, agreements, and other
132 agreements and all instruments necessary or convenient, including contracts for
133 construction of projects and leases of projects or contracts with respect to the use of
134 projects which it causes to be erected or acquired; and any and all persons, firms, and
135 corporations and any and all political subdivisions, departments, institutions, or agencies
136 of the state are authorized to enter into contracts, leases, or agreements with the authority
137 upon such terms for such purposes as they deem advisable; and, without limiting the
138 generality of the above, authority is specifically granted to municipal corporations,
139 counties, political subdivisions, and the authority to enter into contracts, lease
140 agreements, or other undertakings relative to the furnishing of services and facilities by
141 the authority to such municipal corporations, counties, and political subdivisions or
142 relative to the furnishing of facilities and services by municipal corporations, counties,
143 political subdivisions, corporations, or individuals to the authority for a term not
144 exceeding 50 years;

145 (6) To plan, design, construct, erect, acquire, own, lease, repair, remodel, maintain, add
146 to, extend, improve, equip, operate, and manage projects, the cost of any such project to
147 be paid in whole or in part from the proceeds of revenue bonds, notes, or other funds of
148 the authority, from the contracting for services, or from such proceeds or other funds and
149 any grant from the United States, the state, or any political subdivision, agency, or
150 instrumentality thereof, or from any other source whatsoever;

151 (7) To accept loans and grants of money or materials or property of any kind from the
152 United States or any agency or instrumentality thereof, upon such terms and conditions
153 as the United States or any agency or instrumentality thereof may impose;

154 (8) To accept loans and grants of money or materials or property of any kind from the
155 state or any agency or instrumentality or political subdivision thereof, upon such terms
156 and conditions as the state or any agency or instrumentality or political subdivision
157 thereof may impose;

158 (9) To borrow money for any of its corporate purposes, to execute notes or other
159 evidences of such indebtedness, to secure the same, to issue revenue bonds payable solely
160 from funds pledged for that purpose, and to provide for the payment of the same and for
161 the rights of the holders thereof;

- 162 (10) To exercise any power usually possessed by private corporations performing similar
163 functions which is not in conflict with the Constitution and laws of this state;
- 164 (11) To sell, lease, grant, exchange, or otherwise dispose of any surplus property, both
165 real and personal, or interest therein not required in the normal operation of and usable
166 in the furtherance of the purpose for which the authority was created;
- 167 (12) To borrow money for any of its corporate purposes from any bank, banks, or other
168 lending institutions; to execute notes or other evidences of such indebtedness; and to
169 secure the same by assigning all rights and pledging all funds to be received by the
170 authority from a contract or lease entered into by the authority and any political
171 subdivision or governmental body;
- 172 (13) To exercise any power which is usually possessed by private corporations
173 performing similar functions and which is not in conflict with the Constitution and laws
174 of this state; and
- 175 (14) To do all things necessary or convenient to carry out the powers expressly given in
176 this Act.

177 **SECTION 6.**

178 Revenue bonds.

179 The authority, or any authority or body which has or which may in the future succeed to the
180 powers, duties, and liabilities vested in the authority created by this Act, shall have the
181 power and is authorized at one time or from time to time to provide by resolution for the
182 issuance of revenue bonds for the purpose of paying all or any part of the cost of any one or
183 more projects. The principal of and interest on such revenue bonds shall be payable from the
184 special fund provided for in this Act for such payment. The bonds of each issue shall be
185 dated; shall bear interest at such rate or rates as determined by the authority, payable on such
186 dates as determined by the authority; shall mature at such time or times not exceeding 40
187 years from their date or dates; shall be payable in such medium of payment as to both
188 principal and interest as may be determined by the authority; and may be made redeemable
189 before maturity at the option of the authority at such price or prices and under such terms and
190 conditions as may be fixed by the authority in the resolution providing for the issuance of the
191 bonds. Such revenue bonds or obligations shall be issued pursuant to and in conformity with
192 Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," and all
193 procedures pertaining to such issuance and the conditions thereof shall be the same as those
194 contained in said article.

195

SECTION 7.

196

Trust agreement as security.

197 In the discretion of the authority, any issue of revenue bonds may be secured by an
198 agreement or indenture made by the authority with a corporate trustee, which may be any
199 trust company or bank having the powers of a trust company within or without the state.
200 Such trust agreement or indenture may pledge and assign rents, fees, charges, revenues, and
201 earnings to be received by the authority. The resolution providing for the issuance of
202 revenue bonds and such trust agreements or indenture may contain provisions for protecting
203 and enforcing the rights and remedies of the bondholders, including the right of appointment
204 of a receiver upon default of the payment of any principal or interest obligation and the right
205 of any receiver or trustee to enforce collection of any rents, fees, charges, or revenues for use
206 of the project or projects necessary to pay all costs of operation and all reserves provided for,
207 all principal and interest on all bonds of the issue, all costs of collection, and all other costs
208 reasonably necessary to accomplish the collection of such sums in the event of any default
209 of the authority. Such resolution and such trust agreement or indenture may include
210 covenants setting forth the duties of the authority in relation to the acquisition of property for
211 and construction of the project and to the custody, safeguarding, and application of all funds
212 and covenants providing for the operation, maintenance, repair, and insurance of the project
213 or projects and may contain provisions concerning the conditions, if any, upon which
214 additional revenue bonds may be issued. Such trust agreement or indenture may set forth the
215 rights and remedies of the bondholders and of the trustee and may restrict the individual right
216 of action of bondholders as is customary in securing bonds and debentures of corporations
217 and may contain such other provisions as the authority may deem reasonable and proper for
218 the security of the bondholders. All expenses incurred in carrying out such trust may be
219 treated as a part of the cost of maintenance, operation, and repair of the project affected by
220 such trust.

221

SECTION 8.

222

Refunding bonds.

223 To the extent authorized under Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the
224 "Revenue Bond Law," the authority is authorized to provide by resolution for the issuance
225 of revenue bonds of the authority for the purpose of calling, refunding, or refinancing any
226 revenue bonds issued by or on behalf of Grady County or any revenue bonds issued under
227 the provisions of this Act and then outstanding and to include in the amount of such

228 refunding bonds all interest and any call premiums that may be required for the redemption
229 and refunding of such outstanding bonds.

230 **SECTION 9.**

231 Bonds for essential purpose.

232 All revenue bonds issued under this Act are declared to be issued for an essential public and
233 governmental purpose, and said bonds, their transfer, and the income therefrom shall be
234 exempt from all taxation within the state to the extent allowed by general law.

235 **SECTION 10.**

236 Sale of bonds.

237 The authority may sell bonds in such manner and for such price as it may determine to be in
238 the best interests of the authority through negotiated or public sale, and the proceeds derived
239 from the sale of such revenue bonds shall be used solely for the purpose provided in the
240 resolutions and proceedings authorizing the issuance of such revenue bonds.

241 **SECTION 11.**

242 Conditions for issuance of bonds.

243 Such revenue bonds may be issued without any other proceedings or the happening of any
244 other conditions or things than those proceedings, conditions, and things which are specified
245 or required by this Act and by Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the
246 "Revenue Bond Law." Any resolution providing for the issuance of revenue bonds under the
247 provisions of this Act shall become effective immediately upon its passage and need not be
248 published or posted, and any such resolution may be passed at any regular or special or
249 adjourned meeting of the authority by a majority of its members.

250 **SECTION 12.**

251 Revenue bonds not debt.

252 Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a
253 debt of the state, Grady County, or any political subdivision thereof, nor a pledge of the faith
254 and credit thereof; but such bonds shall be payable solely from the rentals, revenues,
255 earnings, and funds of the authority as provided in the resolution or trust agreement or
256 indenture authorizing the issuance and securing the payment of such bonds; and the issuance

257 of such revenue bonds shall not directly, indirectly, or contingently obligate the state or any
 258 political subdivision thereof to levy or to pledge any form of taxation whatsoever therefor
 259 or to make any appropriation for their payment, and all such bonds shall contain recitals on
 260 their fact covering substantially the foregoing provisions of this section. However, any other
 261 political subdivision contracting with the authority may obligate itself to pay the amounts
 262 required under any contract entered into with the authority from funds received from taxes
 263 to be levied and collected for that purpose to the extent necessary to pay the obligations
 264 contractually incurred under this section and from any other source. The obligation to make
 265 such payments shall constitute a general obligation and a pledge of the full faith and credit
 266 of the obligor but shall not constitute a debt of the obligor within the meaning of Article IX,
 267 Section V, Paragraph I of the Constitution of Georgia. When such obligation is made to
 268 make such payments from taxes to be levied for that purpose, then the obligation shall be
 269 mandatory to levy and collect such taxes from year to year in an amount sufficient to fulfill
 270 and fully comply with the terms of such obligation.

271 **SECTION 13.**

272 Sinking fund.

273 The revenue, rents, and earnings derived from any particular project or projects and any and
 274 all revenue, rents, and earnings received by the authority, regardless of whether such
 275 revenue, rents, and earnings were produced by a particular project for which bonds have been
 276 issued, unless otherwise pledged, may be pledged by the authority for payment of the
 277 principal of and interest on the revenue bonds of the authority as may be provided in any
 278 resolution authorizing the issuance of such bonds or in any trust instrument pertaining to such
 279 bonds. Such funds so pledged, from whatever source received, may include funds received
 280 from one or more or all sources and may be set aside at regular intervals into sinking funds
 281 for which provision may be made in any such resolution or trust instrument and which may
 282 be pledged to and charged with the payment of:

- 283 (1) The interest upon such revenue bonds as such interest shall become due;
 284 (2) The principal of the revenue bonds as the same shall mature;
 285 (3) The necessary charges of any trustee or paying agent for paying such principal and
 286 interest; and
 287 (4) Any premium upon bonds retired by call or purchase.

288 The use and disposition of any sinking fund may be subject to such regulation as may be
 289 provided for in the resolution authorizing the issuance of the revenue bonds or in the trust
 290 instrument securing the payment of the same.

291

SECTION 14.

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Validation of bonds.

293 Revenue bonds of the authority shall be confirmed and validated in accordance with the
294 procedures set forth in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue
295 Bond Law." The petition for validation shall also make party defendant to such action the
296 state and any institution, department, or agency thereof, and any municipality, county,
297 authority, political subdivision, or instrumentality of the state or the United States or any
298 institution, department, or agency thereof, if subject to being sued and if consenting to same,
299 which has contracted with the authority for the services and facilities of the project for which
300 bonds are to be issued and sought to be validated. The state or such municipality, county,
301 authority, political subdivision, or instrumentality shall be required to show cause, if any,
302 why such contract or contracts and the terms and conditions thereof should not be inquired
303 into by the court and the validity of the terms thereof be determined and the contract or
304 contracts adjudicated as part of the basis of the security for the payment of any such bonds
305 of the authority. The revenue bonds when validated, and the judgment of validation, shall
306 be final and conclusive with respect to such revenue bonds, the security for the payment
307 thereof, and interest thereon and against the authority issuing the same and the state and any
308 municipality, county, authority, political subdivision, or instrumentality, if a party to the
309 validation proceedings, contracting with the authority.

310

SECTION 15.

311

Interest of bondholders protected.

312 While any of the revenue bonds issued by the authority remain outstanding, the powers,
313 duties, or existence of said authority or of its officers, employees, or agents shall not be
314 diminished or impaired in any manner that would affect adversely the interests and rights of
315 the holders of such bonds, and no other entity, department, agency, or authority shall be
316 created which would compete with the authority to such an extent as to affect adversely the
317 interests and rights of the holders of such revenue bonds, nor shall the state itself so compete
318 with the authority. The provisions of this Act shall be for the benefit of the authority and the
319 holders of any such revenue bonds, and the issuance of such revenue bonds under the
320 provisions of this Act shall constitute a contract with the holders of such revenue bonds.

321 **SECTION 16.**

322 Funds received considered trust funds.

323 All funds received pursuant to the authority of this Act, whether as proceeds from the sale
324 of revenue bonds or as revenue, rents, fees, charges, or other earnings or as grants, gifts, or
325 other contributions, shall be deemed to be trust funds to be held and applied by the authority,
326 solely as provided in this Act. The bondholders entitled to receive the benefits of such funds
327 shall have a lien on all such funds until the same are applied as provided for in any such
328 resolution or trust instrument of the authority.

329 **SECTION 17.**

330 Exemption from taxation.

331 The exercise of the powers conferred upon the authority under this Act shall constitute an
332 essential governmental function for a public purpose; and, to the extent allowed by general
333 law, the authority shall not be required to pay taxes or assessments upon any of the property
334 acquired by it or under its jurisdiction, control, possession, or supervision; upon its activities
335 in the operation and maintenance of property acquired by it or buildings erected or acquired
336 by it; upon any fees, rentals, or other charges for the use of such property or buildings; or
337 upon other income received by the authority.

338 **SECTION 18.**

339 Property not subject to levy and sale.

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

341 **SECTION 19.**

342 Immunity from tort actions.

343 To the extent permitted by law, the authority shall have the same immunity and exemption
344 from liability for torts and negligence as Grady County, and the officers, agents, and
345 employees of the authority, when in performance of work of the authority, shall have the
346 same immunity and exemption from liability for torts and negligence as officers, agents, and
347 employees of Grady County, when in the performance of their public duties or work of said
348 county. The authority may be sued the same as private corporations on any contractual
349 obligation of the authority.

350 **SECTION 20.**

351 Venue and jurisdiction.

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

357 **SECTION 21.**

358 Scope of operations.

359 The scope of the authority's operation shall be limited to the territory embraced within Grady
360 County; provided, however, that nothing in this Act shall be construed as prohibiting the
361 authority from providing services or facilities to political subdivisions or other public bodies
362 outside of such territory pursuant to an intergovernmental contract.

363 **SECTION 22.**

364 Conveyance of property upon dissolution.

365 Should the authority for any reason be dissolved after full payment of all bonded
366 indebtedness incurred hereunder, both as to principal and interest, title to all property of any
367 kind and nature, real and personal, held by the authority at the time of such dissolution shall
368 be conveyed to Grady County; or title to any such property may be conveyed prior to such
369 dissolution in accordance with provisions which may be made therefor in any resolution or
370 trust instrument relating to such property, subject to any liens, leases, or other encumbrances
371 outstanding against or in respect to said property at the time of such conveyance.

372 **SECTION 23.**

373 Liberal construction of Act.

374 This Act shall be liberally construed for the accomplishment of the purposes of the authority.

375 **SECTION 24.**

376 Effective date.

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

379 **SECTION 25.**

380 Repealer.

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