

House Bill 388

By: Representatives Mainor of the 56<sup>th</sup>, Roberts of the 52<sup>nd</sup>, Holland of the 54<sup>th</sup>, Metze of the 55<sup>th</sup>, Bruce of the 61<sup>st</sup>, and others

A BILL TO BE ENTITLED

AN ACT

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

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Short title.

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

**SECTION 2.**

Legislative findings.

(1) The General Assembly finds that while the City of Atlanta is a world renowned center of technological innovation, pockets exist throughout the city 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 city.

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

(3) It is the intent of the General Assembly in creating the Atlanta Technology and Energy Enhancement Authority to establish an entity capable of identifying and targeting the specific elements relating to the underdevelopment of technological resources and energy burdens which are causing poverty 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.**

## Atlanta Technology and Energy Enhancement Authority.

(a) There is created a public body corporate and politic to be known as the "Atlanta 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. The authority shall have perpetual existence.

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

(1) One member appointed by the Lieutenant Governor from a list of nominees provided by the Georgia Institute of Technology;

(2) One member appointed by the Lieutenant Governor from a list of nominees provided by the National Renewable Energy Laboratory;

(3) One member appointed by the Mayor of the City of Atlanta from a list of nominees provided by Spelman College;

(4) One member appointed by the Mayor of the City of Atlanta from a list of nominees provided by the American Association of Blacks in Energy;

(5) One member appointed by the board of the Georgia State Financing and Investment Commission;

(6) One member appointed by the commissioner of the Technical College System of Georgia;

(7) One member appointed by the board of directors of the Department of Economic Development;

- 60 (8) One member appointed by the executive director of the Georgia Technology  
61 Authority; and
- 62 (9) One member appointed by the remaining members of the board from a list of  
63 nominees provided by the members of the General Assembly whose districts include all  
64 or a part of the area of operation.
- 65 (c) The authority shall elect from its members a chairperson, a vice chairperson, a  
66 secretary, and a treasurer or a secretary-treasurer. All officers shall be voting members.
- 67 (d) A majority of the members shall constitute a quorum, and any action may be taken by  
68 the authority upon the affirmative vote of a majority of a quorum of the members. No  
69 vacancy on the authority shall impair the right of the quorum to exercise all of the rights  
70 and perform all of the duties of the authority.
- 71 (e) The board members shall select a chairperson from among their membership.
- 72 (f) Members shall serve terms of four years. Vacancies on the board shall be filled by the  
73 appointing authority appointing a new member to serve out the remainder of the unexpired  
74 term.
- 75 (g) The authority shall stand dissolved upon the area of operation no longer being deemed  
76 a high energy burden area by the authority, high school graduation rates for residents of the  
77 area of operation is 90 percent of the graduation rate of the Atlanta Public Schools high  
78 school with the highest graduation rate, and no more than 20 percent of the residents of the  
79 area of operation live below the national poverty level.

**SECTION 4.**

## Definitions.

82 As used in this Act, the term:

83 (1) "Area of operation" means any part of the City of Atlanta on July 1, 2021, that is  
84 within ZIP Codes 30311 or 30314, as defined by the United States Postal Service.

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

87 (3) "Board" means the board of the Atlanta Technology and Energy Enhancement  
88 Authority.

89 (4) "City" means the City of Atlanta.

90 (5) "Costs of the project" means and embraces the cost of construction; the cost of all  
91 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and  
92 equipment; financing charges; interest prior to and during construction and for six months  
93 after completion of construction; the cost of engineering, architectural, fiscal agents'  
94 expenses, legal expenses, plans and specifications, and other expenses necessary or  
95 incidental to determining the feasibility or practicability of the project; administrative  
96 expenses and such other expenses as may be necessary or incidental to the financing  
97 authorized in this Act; working capital; and all other costs necessary to acquire, construct,  
98 add to, extend, improve, equip, operate, and maintain the project.

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

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

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

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

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

## 120 SECTION 5.

### 121 Powers.

122 The authority shall have the power:

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

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

- 127 (3) To accept loans or grants of money or materials or property of any kind from the state  
128 or any agency or instrumentality or political subdivision thereof, upon such terms and  
129 conditions as the state or such agency or instrumentality or political subdivision may  
130 require;
- 131 (4) To accept loans or grants of money or materials or property of any kind from private  
132 corporations, individuals, and entities, upon such terms and conditions as such private  
133 corporations, individuals, and entities may require;
- 134 (5) To administer funds under its control so as to engage in technology or energy  
135 development projects;
- 136 (6) To acquire by purchase, lease, gift, or otherwise, and to hold, operate, maintain,  
137 lease, and dispose of real and personal property of every kind and character for its  
138 corporate purposes;
- 139 (7) To coordinate the activities of federal, state, local, and private entities to pursue  
140 technology or energy projects;
- 141 (8) To contract for the construction of renewable energy infrastructure and buildings and  
142 facilities, including but not limited to green buildings or facilities, and to use, sell, or  
143 lease such infrastructure, buildings, and facilities to accomplish the purposes of the  
144 authority;
- 145 (9) To acquire in its own name by purchase, on such terms and conditions and in such  
146 manner as it may deem proper, property for public use, real property or rights or  
147 easements therein, or franchises necessary or convenient for its corporate purposes, and  
148 to use the same so long as its corporate existence shall continue, and to lease or make  
149 contracts with respect to the use of or dispose of the same in any manner it deems to the  
150 best advantage of the authority, and no property shall be acquired under the provisions  
151 of this Act upon which any lien or encumbrance exists, unless at the time such property

152 is so acquired a sufficient sum of money is to be deposited in trust to pay and redeem the  
153 fair value of such lien or encumbrances;

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

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

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

166 (13) To pay the costs of the project with the proceeds of revenue bonds or other  
167 obligations issued by the authority or from any grant or contribution from the United  
168 States of America or any agency or instrumentality thereof or from the state or any  
169 agency or instrumentality or other political subdivision thereof or from any other source  
170 whatsoever;

171 (14) To borrow money for any of its corporate purposes and to issue revenue bonds, and  
172 to provide for the payment of the same and for the rights of the holders thereof;

173 (15) To exercise any power usually possessed by private corporations performing similar  
174 functions, including the power to incur short-term debt and to approve, execute, and  
175 deliver appropriate evidence of any such indebtedness; and

176 (16) To do all things necessary or convenient to carry out the powers expressly given in  
177 this Act.



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**SECTION 6.**

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Meetings and public hearings.

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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.

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**SECTION 7.**

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Revenue bonds.

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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.

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**SECTION 8.**

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Revenue bonds; conditions precedent to issuance.

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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.

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**SECTION 9.**

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Credit not pledged.

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Revenue bonds of the authority shall not be deemed to constitute a debt of the City of Atlanta or the State of Georgia, nor a pledge of the faith and credit of this state or such city, 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 city 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.

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**SECTION 10.**

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Trust indenture as security.

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

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**SECTION 11.**

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Trust indenture as security; remedies of bondholders.

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

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**SECTION 12.**

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Trust indenture as security; validation.

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

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**SECTION 13.**

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To whom proceeds of bonds shall be paid.

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

257 **SECTION 14.**258 **Sinking fund.**

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

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

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

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**SECTION 15.**

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Venue and jurisdiction.

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

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**SECTION 16.**

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Interest of bondholders protected.

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

297 **SECTION 17.**

298 Money received considered trust funds.

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

302 **SECTION 18.**

303 Purpose of the authority; reversion upon dissolution.

304 (a) The authority is created for the purpose of promoting the public good and general  
305 welfare of the citizens of the City of Atlanta, and the development, operation, financing and  
306 providing facilities, equipment, and services to upgrade the technological and energy  
307 resources within the area of operation.

308 (b) Upon the dissolution of the authority, all assets owned by the authority shall become  
309 the property of the Georgia Institute of Technology, or failing such succession, to the State  
310 of Georgia.

311 **SECTION 19.**

312 Rates, charges, and revenues; use.

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

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**SECTION 20.**

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Rules, regulations, service policies, and

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procedures for operation of projects.

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It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations,

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service policies, and procedures for the operation of any project or projects constructed or

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acquired under the provisions of this Act. The authority may adopt bylaws.

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**SECTION 21.**

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Tort immunity.

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To the extent permitted by law, the authority shall have the same immunity and exemption

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from liability for torts and negligence as the city; and the officers, agents, and employees of

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the authority when in the performance of the work of the authority shall have the same

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immunity and exemption from liability for torts and negligence as the officers, agents, and

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employees of the city when in the performance of their public duties or work of the city.

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**SECTION 22.**

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Tax exemption.

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The income of the authority, the properties of the authority, both real and personal, and all

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revenue bonds, certificates of participation, notes, and other forms of obligations issued by

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the authority shall be exempt from all state and local taxes and special assessments of any

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kind to the extent permitted by and in accordance with the general laws of the state.



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**SECTION 23.**

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Effect on other governments.

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

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**SECTION 24.**

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Liberal construction of Act.

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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.

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**SECTION 25.**

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Severability; effect of partial invalidity of Act.

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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.

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**SECTION 26.**

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Purpose of the authority.

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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 technological resources within the area of operation.

357 **SECTION 27.**

358 Effective date.

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

361 **SECTION 28.**

362 Repealer.

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