



State of Tennessee
PRIVATE CHAPTER NO. 48

HOUSE BILL NO. 2978

By Representative Gant

Substituted for: Senate Bill No. 2962

By Senator Walley

AN ACT to create the Fayette County Water Authority.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) A governmental authority to be known as the "Fayette County Water Authority" is hereby created and established for the purpose of planning, acquiring, constructing, improving, extending, furnishing, equipping, financing, owning, operating, and maintaining a water and wastewater system. Such system shall include distribution, storage, treatment, and collection facilities, properties, and services, as hereinafter provided, the selling, donating, conveying, or otherwise disposing of water and wastewater, and undertaking any project or work related thereto or connected therewith. The authority shall be a public and governmental body acting as an instrumentality and agency of the county and the powers granted are for public and governmental purposes and matters of public necessity.

(b) The purpose of the authority is to plan and develop the water resources of Fayette County and the geographic region and to provide necessary wastewater collection and treatment attendant thereto. The further purpose of the authority is to provide environmental services and to secure economic benefits to the county and geographic region that it encompasses and may serve.

SECTION 2. Whenever used in this act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

(1) "Authority" means the Fayette County Water Authority created by this act;

(2) "Board" means the board of directors of the authority;

(3) "Bonds" means bonds, interim certificates, or other obligations of the authority issued pursuant to this act, including joint obligations of the authority and the county or municipalities;

(4) "County" means Fayette County, Tennessee;

(5) "County legislative body" means the Fayette County board of commissioners, county commission, or legislative body of Fayette County;

(6) "Governing body" means the chief legislative body of a county or municipality;

(7) "Municipality" means any other county, incorporated city or town, board or commission, or other municipal, governmental body, or subdivision in this state, now or hereafter authorized by law to be created, that enters into an agreement with the authority as provided in Section 17 of this act;

(8) "Note" means notes or interim certificates of the authority issued pursuant to this act, including joint obligations of the authority and the county, and/or municipalities;

(9) "Person" means any individual, firm, partnership, association, corporation or any combination thereof;

(10) "Refunding bonds" means refunding bonds, issued pursuant to this act, including joint obligations of the authority and the county issued pursuant to this act and Tennessee Code Annotated, Title 9, Chapter 21, Parts 1 and 9, to refund bonds of the authority or refund bonds or notes issued to the county, or a municipality issued by such county, or municipality; the proceeds of which were used to construct, acquire, extend, improve, or equip all or a portion of a system acquired by the authority or to refund bonds, the proceeds of which were used for such purposes;

(11) "State" means the state of Tennessee; and

(12) "System" means a water and/or wastewater system, which shall include, but not be limited to, all rights, devices, buildings, land, easements, right-of-ways, distribution and reception networks and equipments used in the storage, treatment, recycling, and reclamation of sewage, of residential, commercial, and industrial waste of a liquid nature, to restore and maintain the water resources, including the chemical, physical, and biological integrity of the state's water; or any devices and systems used for the treatment and distribution of water, including intercepting sewers, outfall sewers, sewage collection systems, water storage facilities, water transmission lines, pumping, power, filtration, and other equipment and other appurtenances, extensions, improvements, remodeling, distribution and reception networks and all legal rights therein, additions and alterations thereof, elements essential to provide a reliable recycled supply, such as a standby treatment units and clear well facilities, and any works and networks associated therewith, pursuant to board approval.

SECTION 3.

(a) The authority shall have a board of directors in which all powers of the authority shall be vested. Each director shall have an equal vote in the affairs of the authority.

(b) The initial membership of the board of directors shall consist of five (5) directors appointed by the Fayette County mayor and confirmed by the county legislative body.

(c) All vacancies and subsequent appointments to the board of directors shall be filled by the Fayette County mayor, subject to confirmation by the county legislative body.

(d) A chairman of the board of directors shall be selected from the membership of the board.

(e) Each director shall be a resident of Fayette County and, once appointed by the county mayor and confirmed by the county legislative body, shall serve for a four (4) year term. Terms of the board of directors shall be staggered. The initial board of directors for the authority may serve terms less than four (4) years. The county mayor shall determine the length of the initial terms. Directors may be removed for cause at any time by majority vote of the board, with such removal being subject to approval by the county mayor and legislative body.

(f) A majority of the board membership shall constitute a quorum and the board shall act by vote of the majority present at any meeting attended by a quorum. Vacancies among the directors shall not affect their power and authority, so long as a quorum remains. Within thirty (30) days after selection of the board, the board shall hold a meeting to elect a chair, vice-chair, secretary, and treasurer, and such other officers as shall from time-to-time be deemed advisable by the board. The positions of chair and vice-chair shall be selected from the membership of the board of directors. The positions of secretary and treasurer can be selected from the membership of the board of directors, or filled by employees of the authority. If the secretary and/or treasurer position is appointed from the employees of the authority, they shall have no vote or membership

status on the board of directors, but shall receive compensation, as approved by the board, for their services.

(g) The secretary shall keep the minutes of all regular and special meetings of the authority. Such minutes shall be available for public inspection within thirty (30) days of the board's approval of the meeting's minutes, at the main office of the authority. The board shall have the ability to establish standards, rules, and policies, including reasonable hours of inspection and reproduction rates and fees for inspection of public documents possessed by the authority; however, no rule or policy may conflict with Tennessee law.

(h) The treasurer shall monitor and report the financial status of the authority at each board meeting and shall further be responsible for reporting all financial responsibilities and obligations to the board when requested.

(i) The board shall hold meetings at such times and places as the board may determine, but shall meet at least monthly. All meetings shall be open to the public. Notice of such meetings shall be given in a newspaper of general circulation in the county at least ten (10) days prior to such meeting being held. Special meetings may be called and held upon sufficient notice. Except as otherwise expressly provided, the board of directors shall establish its own rules of procedure, personnel policy, standard operations manual, and all other policies governing operation of the authority. Any action taken by the board exercising its powers under the provisions of this act may be exercised by majority vote or resolution at any regular or special meeting of which notice has been properly given to the public.

(j) All directors shall serve with or without compensation as the board may determine by resolution. The board, upon two-thirds (2/3) majority vote, may set compensation for its members up to, but not more than, four hundred dollars (\$400) per director, per meeting, of the authority; provided, however, that directors shall not be compensated for more than twelve (12) meetings in one (1) calendar year. Additional expenses incurred by any member of the board of directors, including training, travel, certifications, and reasonable expenses associated with serving as a board member shall be compensated or reimbursed upon approval by the board of directors and subsequent presentation, as requested, of supporting receipts.

SECTION 4. The authority shall have the following powers in addition to those specified in other sections of this act, together with powers incidental thereto or necessary for the performance of those hereinafter stated:

(1) To sue and be sued and to prosecute and defend at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(2) To have a seal and to alter the same at pleasure; provided, however, the absence thereof shall have no effect on the validity of any document, instrument, or other writing;

(3) To plan, establish, acquire, whether by purchase, exchange, gift, devise, lease, or exercise of the power of eminent domain to the extent authorized pursuant to general law, or otherwise, to construct, equip, furnish, improve, repair, extend, maintain, and operate one or more systems within or without the geographic boundary and service area of the county, and within any other county, municipality, or utility district within the state of Tennessee with the consent of the governing body of that particular county, municipality, or utility district, as such boundaries now or may hereinafter exist, and further including the power to hold in the name of the authority, by deed, title, or other conveyance, all ownership rights in all real and personal property, facilities, and appurtenances thereof which the board of the authority may deem necessary in connection herewith;

(4) To enter into agreements with the county and any other municipality for the orderly transfer of all, or any part of the system of the county, or such municipality, and to the extent permitted by law and contract, to assume, to

reimburse, or to otherwise agree to pay outstanding obligations or liabilities of the county or such municipality incurred to acquire, extend, or equip the system;

(5) To enter into agreements with the county and any other municipality to acquire by lease, gift, purchase, or otherwise any system or property related thereto, of the county, or such municipality and operate such system separately, or as a part of its system; or enter into agreements with the county, or any municipality providing for the operation of the authority and this system, or any portion thereof, owned by the county or municipality;

(6) To acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain, or otherwise, any and all types of property, franchises, assets, and liabilities, whether real, personal, or mixed, tangible or intangible, or whether or not subject to mortgages, liens, charges, or other encumbrances and to have, hold, sell, lease, exchange, donate, or convey its properties, facilities, and services, but only for the purpose of continuing the operation of any system by the authority, whenever the board of the authority shall find such action to be in furtherance of the purposes for which the authority is hereby created; provided, however, revenues of any system of the authority shall be accounted for in such manner as not to impair the obligations of contract with reference to bond issues or other legal obligations of the transferor and shall fully protect and preserve the contract rights vested in the owners of outstanding bonds, obligations, or contractual interests; provided, further, any income from the sale of such properties, facilities, and services shall be dedicated to the continued operation of any system by the authority;

(7) To buy, sell, store, treat, and distribute water; to collect and provide treatment for wastewater from, with, or to any municipality or other governmental unit of the state, or the United States, or any agency thereof, or any persons, whether public or private, and to enter into contracts, agreements, or other arrangements with the county, municipalities, or agencies of the state or United States, or other persons in connection therewith;

(8) To make and enter into all contracts, trust instruments, agreements, and other instruments with the county, any municipality, the state or agency thereof, the United States or agency thereof; or any person, including, without limitation, bonds, notes, loan agreements with the Tennessee local development authority or the Tennessee department of environment and conservation, and other forms of indebtedness as if it were a local government, as such term is defined in applicable statutes governing grants and loans to construct, equip, or extend the system and to enter into contracts for the management and operation of the system or any facility or service of the authority for the treatment, processing, collection, distribution, storage, transfer, or disposal of water and wastewater;

(9) To incur debts, to borrow money, to issue bonds and to provide for the rights of the holders thereof;

(10) To apply for, accept and pledge donations, contributions, loans, guarantees, financial assistance, capital grants, and gifts from the county, and any municipality, the state or any agency thereof, the United States government or any agency thereof, or any person whether public or private, for, or in aid of the purposes of the authority, to enter into agreements in connection therewith and to accept the same;

(11) To pledge all or any part of the revenues, receipts, donations, contributions, loans, guarantees, financial assistance, capital grants, or gifts of the authority, to mortgage and pledge one or more of its systems or any parts thereof, whether then owned or thereafter acquired, and to assign and pledge all or any part of its interest in and all rights under contracts and other instruments relating thereto as security for the payments of the principal, premium, if any, and interest on bonds, refunding bonds, loan agreements, or notes issued by the authority;

(12) To have control of its system, facilities, and services with the right and duty to establish, change, and charge rates, fees, rental, tolls, deposits, and other charges and fees for the use of the facilities and services of the authority and the sale of materials or commodities by the authority and to collect revenues and receipts therefrom, not inconsistent with the rights of the holders of the bonds, refunding bonds, and notes;

(13) To enter onto any lands, waters, and premises for the purpose of making surveys, inspections, soundings, and examinations and for the furtherance of the purposes authorized by this act;

(14) To use any right-of-way, easement, or other similar property right necessary or convenient in connection with a system, held by the county, municipality or state, or any political subdivision thereof, provided the governing body of such political subdivision consents to such use;

(15) To employ and pay compensation to such agents and professionals, including attorneys, accountants, engineers, architects, and financial advisors, as the board shall deem necessary for the business of the authority;

(16) To employ, hire, terminate and pay compensation to a system manager and employees thereof, which shall have such authority, duties, and responsibilities as the board deems necessary;

(17) To procure and enter into contracts for any type of insurance, surety or performance bond, or indemnity against loss or damage to property from any cause, including, but not limited to, general errors and omissions, property loss and casualty, loss of use and occupancy, against death or injury of any act by or for, or against, or for the benefit of, any member, officer, or employee of the authority in the performance of the duties of the office or employment, or the authority itself and any other insurable risk, including the payment of bonds, refunding bonds or notes, as the board in its discretion may deem necessary, and to exercise all rights, immunities and protections afforded by Tennessee law and the Governmental Tort Liability Act;

(18) To enter into, by contract or otherwise, a plan for pension, health, disability, hospitalization, death benefits, and any other insurance benefits granted to employees or members of the board of directors, by the board of directors of the authority;

(19) To exercise all powers expressly given to it and necessarily implied therefrom; to make and execute contracts and all other instruments necessary or convenient to do any and all things for the exercise of its powers hereunder; and to establish and make rules, policies, and regulations not inconsistent with the provisions of this act, deemed expedient for the management of the authority's affairs;

(20) To adopt by majority vote of the board purchasing procedures for utility districts as defined in Tennessee Code Annotated, Title 7, Chapter 82, Part 8, or any other purchasing, accounting, or fiscal management act provided for municipalities by state law; and

(21) To make all necessary investments, at the discretion of the board, consistent with the powers of local governments to make such investments as provided in Tennessee Code Annotated, Section 9-1-107.

SECTION 5. The authority may condemn in its own name any land, rights-in-land, easements, or rights-of-way which in the judgment of the board are necessary for carrying out the purposes for which the authority is created. Such property or interest in the property may be so acquired whether or not the same is owned or held for public use by persons having the power of eminent domain, or otherwise held or used for public purposes; provided, however, such prior public use will not be interfered with by the use to which such property will be put by the authority. The exercise of eminent domain power shall be approved by a majority of the membership of the board of directors for the authority. Such power of condemnation shall be

exercised in the manner prescribed by any applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain to the extent such authority is authorized by general law to exercise such power.

SECTION 6. The board shall prescribe and collect reasonable rates, fees, tolls, or charges for the services, facilities, maintenance, and commodities of any system operated by the authority and shall prescribe penalties for the non-payment thereof, and shall revise such rates, fees, tolls, or charges from time-to-time whenever necessary to ensure that any system operated by the authority shall be and always remain self-supporting. The rates, fees, tolls, or charges prescribed shall be in such amount as to always produce revenue at least sufficient:

(1) To provide for all expenses of operation and maintenance of the system, including reserves therefrom;

(2) To pay when due all bonds, notes, and interest in premiums thereon for the payment of which such revenues are or shall have been pledged, charged, or otherwise encumbered, including reserves therefore;

(3) To provide for the operation, extension, or improvement of the system; provided, the authority shall have the power to charge equal, or different rates, to the county, and any municipality hereinafter entering into such an agreement with the authority as provided in Section 17 of this act, sufficient to cover, pay or retire all debts attributable and identifiable to any one system of the authority, and proportionally allocated to a particular system of the authority. At any time, or when any debts of systems of the authority have been paid in full, the board, at its discretion may choose to institute or set a uniform rate for the authority. This provision shall apply to the rates charged for the provision of services as outlined in Section 4; and

(4) To provide for all salaries and wages and benefits for the employees and members of the board of directors for the authority.

SECTION 7.

(a) The authority may issue, by resolution adopted by the board, interest-bearing bond anticipation notes for all purposes for which bonds may be legally authorized and issued by the authority. Such notes shall be secured from proceeds received from the sale of the bonds in anticipation of which the notes are issued and additionally secured by a lien upon the revenues of the system based on parity with the bonds in anticipation of which such notes are issued. In no event shall the amount of outstanding bond anticipation notes exceed the principal amount of the bonds to be issued by the authority. The notes shall mature not later than two years from their date of issuance and may be extended or renewed for not more than two additional periods of two years each by resolution of the board and the issuance of renewal or extension notes.

(b) Notes shall be sold at public or private sale for not less than ninety-seven percent (97%) of the par value thereof and accrued interest as the board may direct. Notes may be sold in one or more series, may bear such date or dates, may bear interest at such rate or rates, which may vary from time to time, may be payable at such time or times, may be in such denomination or denominations, may be in such form, either coupon or registered, may be payable at such place or places, may be executed in such manner, may be payable in such medium of payment, may be subject to such terms of redemption, without a premium or, for notes sold for not less than the par value thereof and accrued interest without or with a premium, all as may be provided by resolution of the board.

(c) Notes shall be executed in the name of the authority by the proper officials authorized to execute the same, together with the seal of the authority attached thereto.

(d) The proceeds arising from the sale of such notes shall be dispersed as provided by the resolution authorizing the issuance of the notes. The term "bond anticipation notes" includes interim certificates or other temporary obligations, which may be issued by the authority to the purchaser of such notes on the terms and conditions herein provided. When the bonds are issued and sold, a sufficient amount of the

proceeds of the bonds shall be applied to the payment of the notes at their maturity or upon their earlier redemption as directed by the board by resolution.

(e) The authority may also issue "bond application notes", which also includes the issuance of "grant anticipation notes", to be secured by the grant in anticipation of which such notes are issued, with all provisions of this section being applicable to such grant anticipation notes.

SECTION 8.

(a) The authority shall have the power to issue bonds from time to time to finance the construction, purchase, acquisition, extension, improvements, and equipping of one or more systems. All bonds issued shall be payable solely out of the revenues and receipts derived from the system for which such bonds are issued or as may be designated in the proceedings under which the bond shall be authorized to be issued. Such bonds may be issued in one or more series, may be executed and delivered at any time, may be in such form and denomination and of such terms and maturities. The bonds may be subject to redemption prior to maturity, either with or without premium, may be in fully registered form, may bear such conversion privileges and may be payable in such installments and at such time or times not exceeding forty years from the date thereof. Such bonds may be payable at such place or places whether within or without the state of Tennessee, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, as provided in the proceedings where under the bond is authorized to be issued.

(b) Bonds may be sold at public or private sale for such price and in such manner and form, and from time to time as may be determined by the board of directors to be most advantageous, and the authority may pay any and all expenses, premiums, and commissions which the board of directors may deem necessary or advantageous in connection with the issuance thereof.

(c) All bonds and interest applicable thereto are hereby made and shall be construed to be negotiable instruments.

(d) Interim certificates or notes or other temporary obligations pending the issuance of revenue bonds shall be payable out of the proceeds of bonds or other funds of the authority available for such purpose.

(e) Proceeds of bonds may be used for the purpose of construction, acquiring, reconstructing, improving, equipping, furnishing, bettering, or extending a system, including the payment of interest on the bonds during the construction of any project for which bonds are issued and for two years after the estimated date of completion, the payment of engineering, physical, architectural, bond insurance, and legal expenses incurred in connection therewith and the issuance of bonds and the establishment of a reasonable reserve fund for the payment of principal of, and interest on, such bonds if a deficiency occurs in the revenues and receipts available for such payment.

SECTION 9.

(a) Any bonds at any time outstanding may at any time and from time to time be funded by the issuance of refunding bonds in such amount as the board may deem necessary, but not exceeding the sum of the following:

(1) The principal amount of the bond being refinanced;

(2) Applicable redemption premiums thereon;

(3) Unpaid interest on such bonds to the date of delivery or exchange of the refunding bonds;

(4) If the proceeds from the sale of the refunding bonds are to be deposited in trust as hereinafter provided, interest to accrue on such obligations from the date of delivery to the feet or any subsequent available redemption date

or dates elected, in its discretion, by the board, or to the date or dates of maturity, whichever shall be determined by the board to be the most necessary or advantageous to the authority;

(5) A reasonable reserve fund for the payment of principal, interest on, and expenses associated thereto and related to such bonds and/or a renewal and replacement reserve;

(6) If the project to be constructed from the proceeds of the obligations being refinanced has not been completed, an amount sufficient to meet the interest charged on the refunding bonds during the construction of such project and for two (2) years after the estimated date of completion (but only to the extent that interest charges have not been capitalized from the proceeds of the obligation being refinanced); and

(7) Expenses, premiums, and commissions of the authority, including bond discounts deemed by the board to be necessary for the issuance of the refunding bond. A determination by the board that any refinancing is necessary or advantageous to the authority, or any of the amounts provided in the preceding sentence, shall be included in such refinancing, or that any of the obligations to be refinanced shall be called for redemption on the first or on any subsequent available redemption date, or permitted to remain outstanding until the respective dates of maturity, shall be conclusive.

(b) Any such refunding may be effected whether the bonds to be refunded have matured or shall thereafter mature, either by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds so to be refunded, or by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds refunded thereby, and regardless of whether or not the bonds to be refunded were issued in connection with the same projects or separate projects and regardless of whether or not the bonds proposed to be refunded are payable on the same date or different dates or shall be due serially or otherwise.

(c) At the time of delivery of the refunding bonds, if the bonds to be refunded will not be retired or a valid or timely notice of redemption of the outstanding bonds is not given in accordance with the resolution, indenture, or other instrument governing the redemption of the outstanding bonds, then, prior to the issuance of the refunding bonds, the board shall cause to be given adequate notice of its intention to issue the refunding bonds. The notice shall be given by mail to the owners of all outstanding bonds to be refunded to their addresses shown on the bond registration records for outstanding bonds, given by publication, or given by such other reasonable means intended to give reasonable notice to the owners, pursuant to the laws of this state. The notice shall set forth the estimated date of delivery of the bonds or refunding bonds and identify the bonds, or the individual maturities thereof, proposed to be refunded; provided, that if portions of individual maturities are proposed to be refunded, the notice shall identify the maturities subject to partial refunding and the aggregate principal amount to be refunded within each maturity. If the issuance of the refunding bonds does not occur as provided in the notice, the governing body shall cause notice thereof to be given as provided above. Except as otherwise set forth in this section, the notice required pursuant to this section shall be given whether or not any of the bonds to be refunded are to be called for redemption.

(d) If any obligations to be refunded are to be called for redemption, notice of redemption shall be given in a manner required by the proceedings authorizing such outstanding obligations.

(e) The principal proceeds from the sale of any refunding bonds shall be applied only as follows, either:

(1) To the immediate payment and retirement of the bonds being refunded; or

(2) To the extent not required for immediate payment of the bonds being refunded, such proceeds shall be deposited in trust to provide for the payment

and retirement of the bonds being refunded and to pay any expenses incurred in connection with such refunding, but provisions may be made for the pledging and disposition of any surplus, including, without limitation, provisions for the pledging of any such surplus to the payment of the principal of premium, if any, and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested at the discretion of the board.

(f) Nothing herein shall be construed as a limitation on the duration of any deposit trust for the retirement of obligations being refunded, but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, have not been called for redemption.

SECTION 10.

(a) The principal of, or premium, if any, and interest on any bonds, refunding bonds and notes may be secured by pledge of revenues from future or current receipts of the authority, or any one or more systems. The proceedings under which the bonds, refunding bonds, or notes are authorized to be issued may contain any agreements, provisions, and covenants respecting the maintenance of such system or other facilities covered thereby; the fixing and collection of rents, fees, or payments with respect to any system or portion thereof covered by such proceedings; the creation and maintenance of special funds from such revenues and from the proceeds of such bonds, refunding bonds, and notes; and the rights and remedies available in the event of default, all as the board shall deem advisable and not in conflict with the provisions of this act. To the extent provided in the proceedings authorizing any bonds, refunding bonds, or notes, each pledge and agreement made for the benefit of security of any of the bonds, refunding bonds, or notes shall continue in effect until the principal of, and interest on, the bonds, refunding bonds, or notes for the benefit of which the same were made shall have been fully paid or adequate provision for the payment thereof shall have been made by the authority. In the event of a default in such payment or in any agreements of the authority made as part of the proceedings under which the bonds, refunding bonds, or notes were issued, such payment or agreement may be enforced by suit, mandamus, or the appointment of a receiver in equity, or the proceedings under which the bonds, refunding bonds, or notes are issued.

(b) The board may designate the appropriate officials to execute all documents necessary to guarantee or in any other manner to secure the payments of the bonds or notes of the authority; provided, however, the approval of the county legislative body or other security shall have been obtained before the execution of such documents. Provided, further, prior to any meeting where the county legislative body will consider such authorization, the board shall cause reasonable public notice to be published describing the matter to be considered and containing an estimate of the dollar amount of any contingent liability incurred by the county, if such authorization is given.

(c) Bonds, notes, or refunding bonds may constitute a joint obligation of the authority and the county. Each such bond, note, or refunding bond upon which the county is jointly obligated with the authority may be secured by the full faith and credit and unlimited ad valorem taxing power of the county. Bonds, notes, or refunding bonds issued as a joint obligation of the authority and the county shall be issued in the form of and manner described in Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 2, and 9 where applicable and in the event of a conflict between this act and Tennessee Code Annotated Title 9, Chapter 21, Parts 1, 2, and 9, then the provisions of Tennessee Code Annotated shall prevail. Notes issued as a joint obligation between the authority and the county shall be issued in the form and manner prescribed in Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 4, and 5, where applicable. In the event of a conflict between this act and Tennessee Code Annotated Title 9, Chapter 21, Parts 1, 4, and 5, then the provisions of Tennessee Code Annotated shall prevail.

(d) Any bond, note, or refunding bond issued under this act may be secured by a mortgage or deed of trust covering any or all parts of the property, real or personal, of the authority. Any pledge, or lien, on revenues, fees, rents, tolls, or other charges received or receivable by any local government to secure the payment of any bonds, notes, or refunding bonds issued pursuant to this act and the interest thereon, shall be valid and binding from the time the pledge or lien is created or granted and shall inure to

the benefit to the holder or holders of any such bonds, notes, or refunding bonds until payment in full of the principal and premium and the interest thereon. Neither the resolution, nor any other instrument granting, creating, or giving notice of the pledge or lien, or other such security interest need to be filed or recorded to preserve or protect the validity or priority of such pledge or lien.

SECTION 11.

(a) In accordance with the provisions of general law, the authority, its properties at any time owned by it, and the income and revenues therefrom shall be exempt from state, county and municipal taxation. To the extent authorized by a municipality, a county, or the general law, bonds, notes, and refunding bonds issued by the authority and the income therefrom shall be exempt from all state, county and municipal taxation, except inheritance, transfer, and estate taxes, or except as otherwise provided by state law. For purposes of Tennessee Code Annotated, Title 48, Chapter 2, and any subsequent amendments thereto, bonds issued by the authority shall be deemed to be securities issued by a public instrumentality or political subdivision of the state.

(b) Neither the Tennessee public utility commission nor any other board or commission of like character hereinafter created, shall have jurisdiction over the authority in the management and control of the system or systems of the authority including the regulation of its rates, fees, tolls, or charges, except to the extent provided by Title 7, Chapter 82 or this act. The authority acknowledges that it is subject to regulation by the department of health and the department of environment and conservation as a public water supply and public sewage system.

SECTION 12.

(a) Neither the county, the state, nor any municipality other than the authority shall, except as may otherwise be authorized by the board of directors of the authority and the governing body of the particular governmental entity, in any event be liable for the payment of the principal of, premium, if any, or the interest on any bonds, notes, or refunding bonds of the authority, or for the performance of any pledge, obligation, or agreement of any kind whatsoever which may be undertaken by the authority, and none of the bonds, notes, or refunding bonds or any of its agreements or obligations shall be construed to constitute an indebtedness of the state, the county, or any municipality within the meaning of any constitutional or statutory provisions whatsoever.

(b) Bonds, notes, or refunding bonds of the authority shall not constitute a debt or a pledge of the full faith and credit of the state, the county, or any municipality, except as may otherwise be authorized by the governing body of the county, or municipality, and the holders or owners of such bonds shall have no right to have taxes levied by the county, municipality, the state, or any other taxing authority within the state for the payment of principal or premium, if any, and interest on such bonds, but shall be payable solely from revenues and monies pledged for their payment.

(c) Except as may otherwise be authorized by the legislative body of the county as specified in this act, all such bonds shall contain on the face thereof a statement to the effect that the bonds, refunding bonds, or notes are not a debt of the county or any other taxing authority of the county or within the state, but are payable solely from the revenues and monies pledged for the payment thereof.

SECTION 13. No part of the net earnings of the authority remaining after payment of its expenses shall inure to the benefit of any persons except that, at such times as no bonds, notes or refunding bonds of the authority are outstanding and unpaid and adequate provision has been made for the full payment of all liabilities, obligations, and contracts of the authority and the authority shall have, by operation of law, been terminated, any assets of the authority, to the extent not necessary for such purposes, shall be paid to the county and to any other municipality represented on the board, in proportional amounts equal to their indebtedness and obligation to the authority and its bonds, notes, and refunding bonds. To the extent allowed by this act, nothing herein contained shall, prevent the board from transferring its properties in accordance with the terms of any contract, agreement, or covenant entered into or undertaken by the authority.

SECTION 14.

(a) The board shall annually establish and adopt a budget for the authority commensurate with established policies and procedures authorized by the board and allowable under Tennessee law. The fiscal year for the authority shall run from the first day of July of each year until the last day of June of each annual and subsequent year.

(b) The board shall cause to be prepared each fiscal year an annual audit of the books and records of the authority. The audit shall comply with generally accepted governmental auditing standards as established by the comptroller of the treasury for the state of Tennessee, department of audit, pursuant to Tennessee Code Annotated, Section 4-3-304. A copy of such annual audit shall be filed with the office of county mayor of Fayette County, as well as the county clerk and shall be available for public inspection at reasonable business hours in the main office of the authority.

(c) The board shall establish employment procedures, personnel policies, general directives, compensation levels, retirement plans, insurance plans, and benefits necessary for the operation of the authority, or for the employees of the authority.

(d) Nothing in this act shall prevent the authority and its board from using separate accounts, or separate accounting books to account for the funds, revenues, assets, debts and liabilities for one or more system or systems under the authority's control, pursuant to authorization from the board.

(e) The board may, from time to time, establish other controlling policies, procedures, rules and documents allowable under Tennessee law and necessary for the operation of the authority.

SECTION 15.

(a) The county may take all actions hereunder by resolution of its governing body. The county shall have all powers necessary to further the purposes of this act, including, without limitation, the power to sell, lease, dedicate, donate, or otherwise convey to the authority any of its interest in any existing water and wastewater system, franchises, assets, liabilities, or other related property, whether real or personal, or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges, or other encumbrances, or grant easements, licenses, or other rights or privileges therein to the authority and to contract with the authority.

(b) The county, through its legislative body, is authorized to issue joint obligations with the authority and to pledge its full faith and credit and unlimited taxing power to such bonds, notes, or refunding bonds, and to guarantee the bonds, notes, or refunding bonds as set forth in Section 10.

(c) The county may enter into agreements with the authority for the orderly transfer of all or any part of its system and to enter into agreements with the authority to assume to pay or to refund bonds, refunding bonds, and notes issued by the county or loan agreements entered into by the county to acquire, construct, or equip all or any part of a system.

(d) The county may advance, donate, and lend money to the authority and provide that funds and grants available to it for assistance shall be paid to the authority.

(e) The county has the power to enter into any contract or agreements with the authority that the board deems necessary to carry out the purposes of this act.

SECTION 16. Neither this act, nor anything herein contained, shall be construed as a restriction or limitation upon any powers which a county or municipality might otherwise have under any laws of the state, but shall be construed as cumulative of, and supplemental to, any such powers. Nothing herein shall be construed to deprive the State of Tennessee and its governmental subdivisions of their respective police powers, or to impair any power of any official or agency of the state and its governmental subdivisions, which may otherwise be provided by law.

SECTION 17. The authority is hereby authorized to enter into contracts and agreements to receive rights and assets from any municipality, which pursuant to a resolution of its governing body, shall have sold, leased, transferred, dedicated, donated or otherwise conveyed its system rights and assets to the authority for ownership and operation by the authority. Any municipality seeking to enter into such agreements with the authority shall have the same rights and liabilities as it would otherwise have in entering into a similar agreements with a water/wastewater treatment authority as provided by Tennessee Code Annotated, Title 68, Chapter 221, Part 6, and as provided by the utility district law, Tennessee Code Annotated, Title 7, Chapter 82.

SECTION 18. This act is remedial in nature and shall be liberally construed to accomplish its purpose of providing for a systematic and efficient means of distributing and encouraging the best utilization and conservation of water resources and wastewater services and the powers herein granted may be exercised without regard to requirements, restrictions, or procedural provisions contained in any other law or charter except as herein expressly provided. Provided, that nothing in this act shall be deemed to supersede any general law. The continued operation of any municipality entering into an agreement with authority, as provided in Section 17, shall be in compliance with the utility district law, Tennessee Code Annotated, Title 7, Chapter 82.

SECTION 19. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 20. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Fayette County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 21. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 20.

HOUSE BILL NO. 2978

PASSED: March 21, 2024



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 9th day of April 2024



BILL LEE, GOVERNOR