

New Business Opportunities for Public-Private Partnerships in Georgia

December 30, 2011

As part of Georgia's continuing efforts to solve its multi-faceted water problems, including dwindling supplies of fresh water and legal threats to Georgia's water supply, Governor Deal signed a new law in May creating opportunities for public-private partnerships in Georgia to deal with these major challenges. The state's reservoirs are in desperate need of repair or modification. Yet local governments are confronted daily with shrinking budgets and limited sources of revenue that make project financing almost impossible. The new law – the 2011 Water Reservoir Act – provides opportunities to meet these challenges. The most important issue is how government entities obtain the financing to fund these projects, each of which can cost up to hundreds of millions of dollars, without relying on local taxes. This law now gives local and county officials the right to contract with private companies to develop, construct, finance, maintain and operate new or revamped water reservoirs and other water projects across the state. Contracts can last for up to 50 years and will permit governmental entities, including the Georgia Environmental Finance Authority, to participate with private businesses in these projects. Fifty-year contracts will enable government entities to achieve predictable and long-term revenues to help support the long-term financing of these projects. Giving local governments the right to enter into long-term contracts can help in this regard because they can allow local governments to issue bonds in reliance on the long-term revenue streams these contracts will generate. However, local and private-sector financing will not provide a complete solution. It is likely that state funding will also be a significant component of these projects' financing. The 2011 Water Reservoir Act offers several advantages to governments and private parties. Local and county governments now have the ability to obtain cost-effective water projects in a timely manner; providing faster solutions at lower costs. The advantages for the private sector are better contracts with sustainable revenues that will create jobs and help the beleaguered construction industry in our state. One example of a highly successful public-private partnership that can serve as a model for partnerships created under the new law is the Cauley Creek Wastewater Treatment facility. Built in 2001 under a partnership between Fulton County and Cauley Creek Water

Reclamation, LLC, this facility was built in record time, under budget and employed state-of-the-art technology. It is one of the most highly awarded and successful facilities of its kind in North America. Further, the new law provides for a fair and open contract award process by requiring public hearings at various stages. It also creates a special procedure to deal with protests or disputes, while at the same time prohibiting the use of injunctive relief to disrupt the contract award or performance of awarded contracts. Other provisions minimize the ability of government officials from becoming involved in projects they may have sponsored; they are now prohibited from becoming involved with a contract for one of these projects for three years after leaving his/her public position. There is no doubt that the newly passed 2011 Water Reservoir Act will create new opportunities in Georgia – ones that will have a positive impact in the local economy. And for those in the private sector, the key to maximizing all opportunities is to organize a group of professional engineers, contractors, investment bankers, operators of public-private projects, and other advisors who can offer a collaborative team to local governments interested in using this new law to improve the quality and quantity of fresh water for their citizens.

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