

The Senate Economic Development Committee offered the following substitute to SB 414:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to enact the "Rural Georgia Economic Development Act of 2006"; to provide a short
3 title; to provide definitions; to authorize the creation of residential community improvement
4 districts by certain local governments in this state; to provide for the governance and
5 operation of such districts; to provide for certain standards for the creation of a district; to
6 provide for certain public hearings; to create a board of supervisors for the district and
7 provide for the selection, powers, duties, responsibilities, terms, and filling of vacancies of
8 members of the board; to provide for a district manager and other employees and their
9 compensation; to provide for applicability of laws concerning open meetings and open
10 records; to provide for the depository of district funds; to provide for fiscal years and
11 budgets; to provide for certain public disclosures; to provide certain limitations on the
12 purchase and sale of certain public utilities by a district; to provide for the adoption of certain
13 plans with regard to certain services; to authorize the issuance of bonds and to provide for
14 certain limitations on the responsibility for the repayment of such bonds; to provide for the
15 manner of issuance, refunding, payment, and financing of such bonds; to authorize bond
16 anticipation notes; to provide for certain short-term loans; to provide for certain trust
17 agreements in connection with the issuance of bonds; to provide for the venue of certain
18 actions; to provide for validation of bonds; to prohibit the impairment of bonded obligations;
19 to provide for certain tax exemptions; to provide for the levy of taxes, fees, and assessments
20 by the district; to provide for the collection of such taxes, fees, and assessments; to provide
21 for competitive bids in certain cases; to provide for certain immunities; to provide for certain
22 legal remedies; to provide that district property is exempt from levy and sale; to provide for
23 the subsequent expansion, merger, and termination of a district; to authorize the Georgia
24 Department of Community Affairs to study and review all districts and report its findings;
25 to amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water
26 resources, so as to provide a preference for existing permits in conformity with existing
27 service delivery strategy agreements; to provide an effective date; to provide for a
28 contingency; to repeal conflicting laws; and for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 SECTION 1.

3 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
4 by adding a new Chapter 76 to read as follows:

5 "CHAPTER 76

6 36-76-1.

7 This chapter shall be known and may be cited as the 'Rural Georgia Economic
8 Development Act of 2006.'

9 36-76-2.

10 As used in this chapter, the term:

11 (1) 'Additional projects' means district projects beyond those identified in the petitioner's
12 master plan for the district and generally identified in the petition for the creation of the
13 district.

14 (2) 'Appropriate local government' means the county governing authority if the district
15 is located wholly in the unincorporated part of the county, the municipal governing
16 authority if the district is located wholly within a municipality, or the county governing
17 authority and each municipal governing authority if the district is located partially in the
18 unincorporated area of a county and partially within one or more municipalities. For the
19 purposes of this chapter, the term 'appropriate local government' may be read as the
20 singular or plural.

21 (3) 'Assessable improvements' means, without limitation, any and all public
22 improvements and community facilities that the district is empowered to provide in
23 accordance with this chapter.

24 (4) 'Assessment bonds' means special obligations of the district which are payable solely
25 from the proceeds of special assessments levied for an assessable improvement.

26 (5) 'Board' or 'board of supervisors' means the governing board of the district or, if such
27 board has been abolished, the appropriate local government succeeding to the principal
28 functions thereof or to whom the powers given to the board by this chapter have been
29 given by law.

30 (6) 'Bond' means any general obligation, assessment bond, refunding bond, or revenue
31 bond provided for in this chapter, as the case may be.

32 (7) 'Cost of the project' shall include the cost of lands, buildings, improvements,
33 machinery, equipment, property, easements, rights, franchises, material, labor, services

1 acquired or contracted for, plans and specifications, financing charges, construction costs,
2 interest prior to and during construction; architectural, accounting, engineering,
3 inspection, administrative, fiscal, and legal expenses; initial reserve and debt service
4 funds; working capital; expenses incident to determining the feasibility or practicability
5 of the project; and expenses incident to the acquiring, constructing, equipping, and
6 operating of any project or any part thereof, and to the placing of the same in operation.

7 (8) 'District' means a residential community improvement district created pursuant to this
8 chapter.

9 (9) 'District manager' means the manager of the district.

10 (10) 'District roads' means highways, streets, roads, alleys, sidewalks, landscaping, storm
11 drains, bridges, thoroughfares of all kinds and descriptions, and other modes of
12 transportation.

13 (11) 'Elector' means a landowner or qualified elector.

14 (12) 'General obligation bonds' means bonds, notes, certificates, or obligations of the
15 district which are secured by or provide for their payment by the pledge of the full faith
16 and credit and taxing power of the district and for payment of which recourse may be had
17 against the general fund of the district.

18 (13) 'Initial costs' means costs related to district projects identified in the petitioner's
19 master plan for the district and generally identified in the petition for the creation of the
20 district.

21 (14) 'Landowner' means the owner of a freehold estate as appears by the deed records of
22 the county, including a trustee, private corporation, and owner of a condominium unit.
23 It shall not include a reversioner, remainderman, mortgagee, or any governmental entity.
24 Reversioners, remaindermen, mortgagees, and governmental entities shall not be counted
25 under the provisions of this chapter and need not be notified of proceedings under this
26 chapter. The term shall include the owner of a ground lease from a governmental entity
27 which leasehold interest has a remaining term, excluding all renewal options, in excess
28 of 50 years.

29 (15) 'Project' means and includes real and personal property acquired or held by the
30 district, including all land, buildings, structures, sanitary and surface water sewers, and
31 other public property determined by the district to be desirable for the efficient operation
32 of the district in the performance of its governmental, proprietary, and administrative
33 functions; provided, however, that such project satisfies the definition of an undertaking,
34 or more than one undertaking, as set forth in paragraph (4) of Code Section 36-82-61 or
35 one or more of the purposes of a residential community improvement district as set forth
36 in Article IX, Section VIII of the Constitution of this state.

1 (16) 'Qualified elector' means a person who shall possess all of the qualifications for
2 voting now or hereafter prescribed by the laws of this state and who shall have properly
3 registered to vote in accordance with Chapter 2 of Title 21.

4 (17) 'Refunding bonds' means bonds issued to refinance outstanding bonds of any type
5 and the interest and redemption premium thereon.

6 (18) 'Residential community improvement district' means the local unit of special
7 purpose government created pursuant to this chapter and limited to the performance of
8 those specialized functions authorized by this chapter and the governing head of which
9 is a body created, organized, constituted, and authorized to function specifically as
10 described in this chapter for the delivery of infrastructure development and improvement
11 services.

12 (19) 'Revenue bonds' means obligations of the district which are payable from revenues
13 derived from sources other than ad valorem taxes on real or tangible personal property
14 and which do not pledge the property, credit, or general tax revenue of the district.

15 (20) 'Sewer system' means any plant, system, facility, or property, and additions,
16 extensions, and improvements thereto at any future time constructed or acquired as part
17 thereof, useful or necessary or having the present capacity for future use in connection
18 with the collection, treatment, purification, or disposal of sewage, including, without
19 limitation, industrial wastes resulting from any process of industry, manufacture, trade,
20 or business or from the development of any natural resource. Without limiting the
21 generality of the foregoing, the term 'sewer system' includes treatment plants, pumping
22 stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines,
23 mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and
24 other devices for the reception and collection of sewage from premises connected
25 therewith; and all real and personal property and any interest therein, rights, easements,
26 and franchises of any nature relating to any such system and necessary or convenient for
27 operation thereof.

28 (21) 'Water management and control facilities' means any lakes, canals, ditches,
29 reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works,
30 structures, or facilities for the conservation, control, development, utilization, and
31 disposal of water, and any purposes appurtenant, necessary, or incidental thereto. The
32 term 'water management and control facilities' includes all real and personal property and
33 any interest therein, rights, easements, and franchises of any nature relating to any such
34 water management and control facilities or necessary or convenient for the acquisition,
35 construction, reconstruction, operation, or maintenance thereof.

36 (22) 'Water system' means any plant, system, facility, or property and additions,
37 extensions, and improvements thereto at any future time constructed or acquired as part

1 thereof, useful or necessary or having the present capacity for future use in connection
2 with the development of sources, treatment, or purification and distribution of water.
3 Without limiting the generality of the foregoing, the term 'water system' includes dams,
4 reservoirs, storage, tanks, mains, lines, valves, pumping stations, laterals, and pipes for
5 the purpose of carrying water to the premises connected with such system, and all rights,
6 easements, and franchises of any nature relating to any such system and necessary or
7 convenient for the operation thereof.

8 36-76-3.

9 (a) The boundaries of a district may extend into an adjoining county, provided that the
10 governing authority of such county consents in writing to the establishment of such district
11 and may include all or portions of an existing municipality in the county in which it is to
12 be established if the governing authority of the municipality consents in writing to the
13 establishment of such district. Such residential community improvement districts shall be
14 created in accordance with the provisions of this Code section.

15 (b) The appropriate local government may exercise its authority under this chapter after
16 holding a public hearing on the creation of residential community improvement districts
17 under this chapter and approving a resolution or ordinance that authorizes such appropriate
18 local government to create and regulate such districts as provided for under this chapter.

19 (c) When a petitioner proposes to create a district within the jurisdiction of an appropriate
20 local government that has authorized the creation and regulation of districts under this
21 chapter as provided in subsection (b) of this Code section, a petition for the creation of such
22 district shall be filed with the appropriate local government. Such petition shall include the
23 following:

24 (1) A metes and bounds description of the external boundaries of the proposed district;

25 (2) The written consent to the establishment of the district by all landowners whose real
26 property is to be included in the district or documentation demonstrating that the
27 petitioner has control by deed, trust agreement, contract, or option of 100 percent of the
28 real property to be included in the district, and when real property to be included in the
29 district is owned by a governmental entity and subject to a ground lease as described in
30 paragraph (14) of Code Section 36-76-2, the written consent by such governmental entity;

31 (3) A designation of the initial members of the board of supervisors, who shall serve in
32 that office until replaced by elected members as provided in Code Section 36-76-4;

33 (4) The proposed name of the district;

34 (5) A map of the proposed district showing current major trunk water mains and sewer
35 interceptors and outfalls, if in existence;

1 (6) Based upon available data, the proposed timetable for construction of the district
2 services and the estimated cost of constructing the proposed services. These estimates
3 shall be submitted in good faith but shall not be binding and may be subject to change;
4 and

5 (7) A designation of the future general distribution, location, and extent of public and
6 private uses of land proposed for the area within the district as shown on the county land
7 use plan, if one has been adopted.

8 (d) Prior to filing the petition, the petitioner shall pay a filing fee of \$5,000.00 to the
9 appropriate local government.

10 (e) After the petition has been filed, the appropriate local government shall conduct a
11 public hearing to consider the relationship of each of the factors specified in subsection (g)
12 of this Code section. The public hearing shall be held within 45 days after the date on
13 which the petition is filed unless an extension of time is requested by the petitioner and
14 granted by the appropriate local government.

15 (f) The public hearing shall be conducted by the appropriate local government and shall
16 permit the taking of both oral and written testimony and comments on the petition pertinent
17 to the factors listed in subsection (g) of this Code section. Notice of the public hearing
18 shall be published in the legal organ of the county at least once a week for four consecutive
19 weeks immediately prior to the hearing. Such notice shall give the time and place for the
20 hearing, a description of the area to be included in the district, which description shall
21 include a map showing clearly the area to be covered by the district, and any other relevant
22 information which the appropriate local government may require. The advertisement shall
23 not be placed in that portion of the newspaper where legal notices and classified
24 advertisements appear, but shall appear in the main body of the newspaper. All affected
25 units of local government and the general public shall be given an opportunity to appear
26 at the hearing and present oral or written comments on the petition.

27 (g) The appropriate local government shall consider the entire record of the public hearing
28 and the following factors and make a determination to grant or deny a petition for the
29 establishment of a residential community improvement district:

30 (1) Whether all statements contained within the petition have been found to be true and
31 correct;

32 (2) Whether the establishment of the district is inconsistent with any applicable element
33 or portion of the county comprehensive plan;

34 (3) Whether the area of land within the proposed district is of sufficient size, is
35 sufficiently compact, and is sufficiently contiguous to be developable as one functional
36 interrelated community;

1 (4) Whether the district is the best alternative available for delivering community
2 improvement services and facilities to the area that will be served by the district;

3 (5) Whether the community improvement services and facilities of the district will be
4 incompatible with the capacity and uses of existing local and regional community
5 improvement services and facilities;

6 (6) Whether the area that will be served by the district is amenable to separate
7 special-district government;

8 (7) Whether the district is compatible with the appropriate local government in general
9 and will supplement rather than be a detriment to the general population and existing
10 taxpayers; and

11 (8) Whether the district will result in an increase in taxation to existing taxpayers in the
12 county or municipality.

13 (h) If the appropriate local government determines that the creation of the district is proper
14 and appropriate, the appropriate local government shall pass a resolution approving the
15 creation of the district which shall include a description of the external boundaries of the
16 district and any real property within the external boundaries of the district which is to be
17 excluded, the names of the initial members of the board of supervisors, and the name of the
18 district.

19 36-76-4.

20 (a) The board of supervisors shall exercise the powers granted to the district pursuant to
21 this chapter. The board shall consist of five members; provided, however, that, if the
22 district includes all or a portion of a municipality or extends into an adjoining county, the
23 governing authority of each such municipality and county shall be entitled to appoint an
24 additional member to the board in the same manner as provided for the appointment of the
25 member by the creating appropriate local government pursuant to paragraph (3) of
26 subsection (b) of this Code section and the petitioner shall be entitled to designate one
27 additional member for each such member appointed by such county or municipality. The
28 petitioner members shall be elected as provided in this Code section. Except as otherwise
29 provided in this Code section, each member shall hold office for a term of four years and
30 until a successor is chosen and qualified. The members of the board must be residents of
31 the state and citizens of the United States.

32 (b)(1) The board shall organize district elections which shall be held at a meeting of the
33 electors of the district. Notice of the landowners' meeting shall be published once a week
34 for two consecutive weeks immediately prior to the election in the legal organ of the
35 county in which the district is located. The landowners, when assembled at such meeting,
36 shall organize by electing a chairperson who shall conduct the meeting. The chairperson

1 may be any person present at the meeting. If the chairperson is a landowner or proxy
2 holder of a landowner, he or she may nominate candidates and make and second motions.

3 (2) At such meeting, each landowner shall be entitled to cast one vote per acre of land
4 owned by him or her located within the district for each person to be elected. A
5 landowner may vote in person or by proxy in writing. Each proxy must be signed by one
6 of the legal owners of the property for which the vote is cast and must contain the typed
7 or printed name of the individual who signed the proxy; the street address, legal
8 description of the property, or tax parcel identification number; and the number of
9 authorized votes. If the proxy authorizes more than one vote, each property must be
10 listed and the number of acres of each property must be included. The signature on a
11 proxy need not be notarized. A fraction of an acre shall be treated as one acre, entitling
12 the landowner to one vote with respect thereto.

13 (3) The appropriate local government shall appoint the initial member or members of the
14 board who shall serve until December 31 of the second even-numbered year following
15 such appointment. Successors to such member shall be appointed not later than
16 December 1 of the year in which such member's term expires and shall serve a term of
17 four years beginning on January 1 immediately following the date of his or her
18 appointment and ending on December 31 of the fourth year following the date of his or
19 her appointment and until his or her successor is appointed and qualified.

20 (c)(1) Members of the board shall stand for election by the qualified electors of the
21 district pursuant to the following schedule with each qualified elector of the district being
22 entitled to vote for the position of each such board member eligible for election:

23 (A) The first petitioner member shall stand for election within six months of the sale
24 to the general public of land representing 50 percent of the geographic area within the
25 boundaries of the district. If any residents reside within the district at the time of the
26 election, only a resident of the district may qualify for election to this seat;

27 (B) The second petitioner member shall stand for election within six months of the sale
28 to the general public of land representing 80 percent of the geographic area within the
29 boundaries of the district. If any residents reside within the district at the time of the
30 election, only a resident of the district may qualify for election to this seat;

31 (C) The third petitioner member shall stand for election within six months of the sale
32 to the general public of land representing 90 percent of the geographic area within the
33 boundaries of the district. If any residents reside within the district at the time of the
34 election, only a resident of the district may qualify for election to this seat; and

35 (D) All remaining petitioner members shall stand for election within six months of the
36 sale to the general public of land representing 95 percent of the geographic area within
37 the boundaries of the district or within ten years after the effective date of the resolution

1 or ordinance establishing the district, whichever is sooner. If any residents reside
2 within the district at the time of the election, only a resident of the district may qualify
3 for election to this seat.

4 (2) On or before June 1 of each year, the board shall determine the amount of land sold
5 within the district to the general public and the proportion of that land sold relative to the
6 overall amount of land within the district boundary for purposes of determining whether
7 any seats of the board shall be contested by election by qualified electors pursuant to this
8 subsection. Such determination shall be made at a meeting of the board and shall become
9 part of the official minutes of the district. Such calculation shall not consider land
10 currently used or identified for future use as district facilities, infrastructure, or other
11 district-specific purposes.

12 (3) Elections of board members shall be nonpartisan. Board members shall assume their
13 office immediately upon their election.

14 (d) Members of the board shall be known as supervisors and, upon entering into office,
15 shall take and subscribe to an oath of office as prescribed by the probate judge of the
16 county in which such district is located. They shall hold office for the terms for which they
17 were elected or appointed and until their successors are chosen and qualified. If, during
18 the term of office, a vacancy occurs in a position filled by election by the landowners or
19 qualified electors of the district, the remaining members of the board shall fill the vacancy
20 by an appointment for the remainder of the unexpired term. If, during the term of office,
21 a vacancy occurs in a position filled by appointment of the appropriate local government,
22 the appropriate local government shall fill the vacancy by an appointment for the remainder
23 of the unexpired term.

24 (e) A majority of the members of the board shall constitute a quorum for the purposes of
25 conducting its business and exercising its powers and for all other purposes. Action taken
26 by the district shall be upon a vote of a majority of the members present.

27 (f) As soon as practicable after each election or appointment, the board shall organize by
28 electing one of its members as chairperson and by electing a secretary, who need not be a
29 member of the board, and such other officers as the board may deem necessary.

30 (g) The board shall keep a permanent record book entitled 'Record of Proceedings of
31 (name of district) Residential Community Improvement District,' in which shall be
32 recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all
33 employees, and any and all corporate acts. The record book and other written documents
34 of the district shall at reasonable times be opened to inspection in the same manner as state,
35 county, and municipal records pursuant to Article 4 of Chapter 18 of Title 50. The record
36 book shall be kept at the office or other regular place of business maintained by the board
37 in the county in which the district is located.

1 (h) Each supervisor shall be entitled to receive for his or her services an amount not to
2 exceed \$200.00 per meeting of the board of supervisors, not to exceed \$4,800.00 per year
3 per supervisor, or an amount established by the electors at referendum. In addition, each
4 supervisor may receive actual expenses incurred for travel on the official business of the
5 board.

6 (i) All meetings of the board shall be open to the public and governed by the provisions
7 of Chapter 14 of Title 50.

8 (j) The board shall establish and maintain an office within the boundaries of the district.

9 (k) At least annually, the board shall disclose the names and contact information of the
10 board members, their employers, and their relationship to one another and to any officer
11 or employee of the developer. The board shall also disclose information accounting for the
12 expenditure of all taxes, fees, and assessments showing separately any compensation paid
13 to board members and to developer officers and employees for service on behalf of the
14 district. Such information shall also include information detailing the outstanding debt of
15 the district, the issue cost, and the purpose of the indebtedness. Such annual report shall
16 be provided to each owner of property within the district and to each person purchasing
17 property within the district. The requirement for such report shall terminate upon the
18 election of the majority of the board by the qualified electors of the district.

19 36-76-5.

20 (a) The board shall employ and fix the compensation of a district manager. The district
21 manager shall have charge and supervision of the works of the district and shall be
22 responsible for preserving and maintaining any improvement or facility constructed or
23 erected pursuant to the provisions of this chapter, for maintaining and operating the
24 equipment owned by the district, and for performing such other duties as may be prescribed
25 by the board. It shall not be a conflict of interest for a board member or the district
26 manager or another employee of the district to be a stockholder, officer, or employee of a
27 landowner. The district manager may hire or otherwise employ and terminate the
28 employment of such other persons, including, without limitation, professional, supervisory,
29 and clerical employees, as may be necessary and authorized by the board. The
30 compensation and other conditions of employment of the officers and employees of the
31 district shall be as provided by the board.

32 (b) The board shall designate a person who is a resident of the state as treasurer of the
33 district who shall have charge of the funds of the district. Such funds shall be disbursed
34 only upon the order or pursuant to the resolution of the board by warrant or check
35 countersigned by the treasurer and by such other person as may be authorized by the board.
36 The board may give the treasurer such other or additional powers and duties as the board

1 may deem appropriate and may fix his or her compensation. The board may require the
2 treasurer to give a bond in such amount, on such terms, and with such sureties as may be
3 deemed satisfactory to the board to secure the performance by the treasurer of his or her
4 powers and duties. The financial records of the board shall be audited by an independent
5 certified public accountant at least once a year. Such audit shall be submitted to the State
6 Department of Audits for review.

7 (c) The board is authorized to select as a depository for its funds any commercial bank or
8 trust company, mutual savings bank, savings and loan association, or building and loan
9 association existing under the laws of this state or of the United States upon such terms and
10 conditions as to the payment of interest by such depository upon the funds so deposited as
11 the board may deem just and reasonable.

12 36-76-6.

13 (a) The fiscal year for the district shall run from January 1 through December 31 of each
14 year.

15 (b) On or before July 15 of each year, the district manager shall prepare a proposed budget
16 for the ensuing fiscal year to be submitted to the board for board approval. The proposed
17 budget shall include at the direction of the board an estimate of all necessary expenditures
18 of the district for the ensuing fiscal year and an estimate of income to the district from the
19 taxes and assessments provided in this chapter. The board shall consider the proposed
20 budget item by item and may either approve the budget as proposed by the district manager
21 or modify the same in part or in whole. The board shall indicate its approval of the budget
22 by resolution, which resolution shall provide for a hearing on the budget as approved.
23 Notice of the hearing on the budget shall be published in the legal organ of the county in
24 which the district is located once a week for two consecutive weeks immediately preceding
25 the date of the hearing. The notice shall further contain a designation of the day, time, and
26 place of the public hearing. At the time and place designated in the notice, the board shall
27 hear all objections to the budget as proposed and may make such changes as the board
28 deems necessary. At the conclusion of the budget hearing, the board shall, by resolution,
29 adopt the budget as finally approved by the board. The budget for the next fiscal year shall
30 be adopted prior to October 1 of the current fiscal year.

31 (c) At least 60 days prior to adoption, the district board shall submit to the appropriate
32 local government in which the district is located, for purposes of disclosure and
33 information only, the proposed annual budget for the ensuing fiscal year and any proposed
34 long-term financial plan or program of the district for future operations.

35 (d) The appropriate local government may review the proposed annual budget and any
36 long-term financial plan or program and may submit written comments to the board for its

1 assistance and information in adopting its annual budget and long-term financial plan or
2 program.

3 36-76-7.

4 (a) The district shall take affirmative steps to provide for the full disclosure of information
5 relating to the public financing and maintenance of improvements to real property
6 undertaken by the district. Such information shall be made available to all existing
7 residents and to all prospective residents of the district. The district shall furnish each
8 developer of a residential development within the district with sufficient copies of that
9 information to provide each prospective initial purchaser of property in that development
10 with a copy, and any developer of a residential development within the district, when
11 required by law to provide a public offering statement, shall include a copy of such
12 information relating to the public financing and maintenance of improvements in the public
13 offering statement.

14 (b) The Department of Community Affairs shall keep a current list of districts and their
15 disclosures pursuant to this chapter.

16 36-76-8.

17 (a) The district shall have, and the board may exercise, the following powers:

18 (1) To sue and be sued in the name of the district; to adopt and use a seal and authorize
19 the use of a facsimile thereof; to acquire by purchase, gift, devise, or otherwise and to
20 dispose of real and personal property or any estate therein; and to make and execute
21 contracts and other instruments necessary or convenient to the exercise of its powers;

22 (2) To contract for the services of consultants to perform planning, engineering, legal,
23 or other appropriate services of a professional nature. Such contracts shall be subject to
24 public bidding or competitive negotiation requirements as set forth in this chapter;

25 (3) To borrow money and accept gifts; to apply for and use grants or loans of money or
26 other property from the United States, the state, a unit of local government, or any person
27 for any district purposes and enter into agreements required in connection therewith; and
28 to hold, use, and dispose of such moneys or property for any district purposes in
29 accordance with the terms of the gift, grant, loan, or agreement relating thereto;

30 (4) To adopt rules and orders prescribing the powers, duties, and functions of the officers
31 of the district; the conduct of the business of the district; the maintenance of records; and
32 the form of certificates evidencing tax liens and all other documents and records of the
33 district. The board may also adopt administrative rules with respect to any of the projects
34 of the district and define the area to be included therein. The board may also adopt
35 resolutions which may be necessary for the conduct of district business;

- 1 (5) To maintain an office at such place or places as it may designate within the county
2 in which the district is located;
- 3 (6) To hold, control, and acquire by donation or purchase, or dispose of, any public
4 easements, dedications to public use, platted reservations for public purposes, or any
5 reservations for those purposes authorized by this chapter and to make use of such
6 easements, dedications, or reservations for any of the purposes authorized by this chapter;
7 When real property in the district is owned by a governmental entity and subject to a
8 ground lease as described in paragraph (14) of Code Section 36-76-2, to collect ground
9 rent from landowners pursuant to a contract with such governmental entity;
- 10 (7) To lease as lessor or lessee to or from any person, firm, corporation, association, or
11 body, public or private, any projects of the type that the district is authorized to undertake
12 and facilities or property of any nature for the use of the district to carry out any of the
13 purposes authorized by this chapter;
- 14 (8) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of
15 indebtedness as provided in this chapter; to levy such tax and special assessments as may
16 be authorized; and to charge, collect, and enforce fees and other user charges. The board
17 may incur debt for initial costs upon the creation of the district by the appropriate local
18 government and adoption of a resolution by the board. Debt for additional projects may
19 be incurred after the board has complied with the requirements of Code Section 36-76-23;
- 20 (9) To raise, by user charges or fees authorized by resolution of the board, amounts of
21 money which are necessary for the conduct of the district activities and services and to
22 enforce their receipt and collection in the manner prescribed by resolution not
23 inconsistent with law;
- 24 (10) To cooperate with or contract with other governmental agencies as may be
25 necessary, convenient, incidental, or proper in connection with any of the powers, duties,
26 or purposes authorized by this chapter;
- 27 (11) To assess and impose upon lands in the district ad valorem taxes as provided by this
28 chapter;
- 29 (12) To determine, order, levy, impose, collect, and enforce special assessments pursuant
30 to this chapter;
- 31 (13) To assess and impose upon lands in the district ad valorem taxes and special
32 assessments pursuant to this chapter for projects authorized by Chapter 71 of Title 36;
- 33 (14) In districts that are composed of at least 1,500 acres, to define areas or designate
34 certain property of the district to pay for improvements, facilities, or services that
35 primarily benefit that defined or designated area or property and do not generally and
36 directly benefit the district as a whole;

1 (15) To exercise all of the powers necessary, convenient, incidental, or proper in
 2 connection with any of the powers, duties, or purposes authorized by this chapter; and

3 (16) To exercise such special powers as may be authorized by this chapter.

4 (b) The district shall not have or exercise the power of condemnation or eminent domain.

5 36-76-9.

6 The district shall have, and the board may exercise, subject to the regulatory jurisdiction
 7 and permitting authority of all applicable governmental bodies, agencies, and special
 8 districts having authority with respect to any area included therein, any or all of the
 9 following special powers relating to public improvements and community facilities
 10 authorized by this chapter:

11 (1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend,
 12 equip, operate, and maintain systems, facilities, and basic infrastructures for the
 13 following:

14 (A) Water management and control for the lands within the district and to connect
 15 some or any of such facilities with roads and bridges;

16 (B) Bridges or culverts that may be needed across any drain, ditch, canal, floodway,
 17 holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over
 18 levees and embankments, and to construct any and all of such works and improvements
 19 across, through, or over any public right of way, highway, grade, fill, or cut;

20 (C) District roads equal to or exceeding the specifications of the appropriate local
 21 government in which such district roads are located and street lights;

22 (D) Buses, trolleys, transit shelters, ridesharing facilities and services, parking
 23 improvements, and related signage;

24 (E) Investigation and remediation costs associated with the cleanup of actual or
 25 perceived environmental contamination within the district under the supervision or
 26 direction of a competent governmental authority unless the covered costs benefit any
 27 person who is a landowner within the district and who caused or contributed to the
 28 contamination;

29 (F) Conservation areas, mitigation areas, and wildlife habitat, including the
 30 maintenance of any plant or animal species, and any related interest in real or personal
 31 property; and

32 (G) Any other project inside or outside the boundaries of a district when the project is
 33 the subject of an intergovernmental agreement between the district and the local
 34 government in which the project is to be located and is consistent with the local
 35 government comprehensive plan of the local government within which the project is to
 36 be located;

1 (2) After the board has obtained the consent of the local government within the
2 jurisdiction of which a power specified in this paragraph is to be exercised, to plan,
3 establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and
4 maintain additional systems and facilities for:

5 (A) Parks and facilities for indoor and outdoor recreational, cultural, and educational
6 uses;

7 (B) Water supply, sewer, and waste-water management, reclamation, and reuse or any
8 combination thereof, and to construct and operate connecting intercepting or outlet
9 sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and
10 under any street, alley, highway, or other public place or ways, and to dispose of any
11 effluent, residue, or other by-products of such system or sewer system;

12 (C) Fire prevention and control, including fire stations, water mains and plugs, fire
13 trucks, and other vehicles and equipment which may be leased, sold, or donated to the
14 governing authority;

15 (D) School buildings and related structures, which may be leased, sold, or donated to
16 the school district, for use in the educational system when authorized by the local
17 school board;

18 (E) Security, including, but not limited to, guardhouses, fences and gates, electronic
19 intrusion-detection systems, and patrol cars, when authorized by proper governmental
20 agencies; except that the district may not exercise any police power but may contract
21 with the appropriate local government agencies for an increased level of such services
22 within the district boundaries;

23 (F) Control and elimination of mosquitoes and other arthropods of public health
24 importance; and

25 (G) Waste collection and disposal;

26 (3)(A) To adopt rules necessary for the district to enforce certain deed restrictions
27 pertaining to the use and operation of real property within the district. For the purpose
28 of this paragraph, the term 'deed restrictions' shall mean those covenants, conditions,
29 and restrictions contained in any applicable declarations of covenants and restrictions
30 that govern the use and operation of real property within the district and, for which
31 covenants, conditions, and restrictions, there is no homeowner's association or property
32 owners' association having respective enforcement powers.

33 (B) Within 60 days after such rules take effect, the district shall record a notice of rule
34 adoption stating generally what rules were adopted and where a copy of the rules may
35 be obtained. Districts may impose fines for violations of such rules and enforce such
36 rules and fines in the superior court of the county in which the district is located
37 through injunctive relief; and

1 (4) To enter into service delivery agreements with a county, municipality, or both,
2 specifying the services and facilities provided within the district and the sources of
3 funding therefor.

4 36-76-10.

5 (a) No district may purchase or sell a water, sewer, or waste-water reuse utility that
6 provides service to the public for compensation, or enter into a waste-water facility
7 privatization contract for a waste-water facility, until the board has held a public hearing
8 on the purchase, sale, or waste-water facility privatization contract and made a
9 determination that the purchase, sale, or waste-water facility privatization contract is in the
10 public interest. In determining if the purchase, sale, or waste-water facility privatization
11 contract is in the public interest, the district shall consider, at a minimum, the following:

12 (1) The most recent available income and expense statement for the utility;

13 (2) The most recent available balance sheet for the utility, listing assets and liabilities and
14 clearly showing the amount of contributions-in-aid-of-construction and the accumulated
15 depreciation thereon;

16 (3) A statement of the existing rate base of the utility for regulatory purposes;

17 (4) The physical condition of the utility facilities being purchased, sold, or subject to a
18 waste-water facility privatization contract;

19 (5) The reasonableness of the purchase, sale, or waste-water facility privatization
20 contract price and terms;

21 (6) The positive and negative impacts of the purchase, sale, or waste-water facility
22 privatization contract on utility customers;

23 (7) Any additional investment required and the ability and willingness of the purchaser
24 or the private firm under a waste-water facility privatization contract to make that
25 investment, whether the purchaser is the district or the entity purchasing the utility from
26 the district. In the case of a waste-water facility privatization contract, the terms and
27 conditions on which the private firm will provide capital investment and financing or a
28 combination thereof for contemplated capital replacements, additions, expansions, and
29 repairs. The district shall give significant weight to this criteria;

30 (8) The alternatives to the purchase, sale, or waste-water facility privatization contract
31 and the potential impact on utility customers if the purchase, sale, or waste-water facility
32 privatization contract is not made; and

33 (9) The ability of the purchaser or the private firm under a waste-water facility
34 privatization contract to provide and maintain high-quality and cost-effective utility
35 service, whether the purchaser is the district or the entity purchasing the utility from the
36 district. In the case of a waste-water facility privatization contract, the district shall give

1 significant weight to the technical expertise and experience of the private firm in carrying
2 out the obligations specified in the waste-water facility privatization contract.

3 (b) All moneys paid by a private firm to a district pursuant to a waste-water facility
4 privatization contract shall be used for the purpose of reducing or offsetting property taxes,
5 waste-water service rates, or debt reduction or making infrastructure improvements or
6 capital asset expenditures or other public purpose; provided, however, that nothing in this
7 subsection shall preclude the district from using all or part of the moneys for the purpose
8 of the district's qualification for relief from the repayment of federal grant awards
9 associated with the waste-water system as may be required by federal law or regulation.

10 (c) The district shall prepare a statement showing that the purchase, sale, or waste-water
11 facility privatization contract is in the public interest, including a summary of the
12 purchaser's or private firm's experience in water, sewer, or waste-water reuse utility
13 operation and a showing of financial ability to provide the service, whether the purchaser
14 or private firm is the district or the entity purchasing the utility from the district.

15 (d) The Environmental Protection Division of the Department of Natural Resources shall
16 treat waste-water facilities of the district in the same manner and under the same standards
17 as waste-water facilities of local governments.

18 36-76-11.

19 In the event that the board assumes the responsibility for providing water management and
20 control for the district as provided in Code Section 36-76-10 which is to be financed by
21 special assessments, the board shall proceed to adopt water management and control plans,
22 assess for benefits, and apportion and levy special assessments as follows:

23 (1) The board shall cause to be made by the district's engineer, or such other engineer
24 or engineers as the board may employ for that purpose, complete and comprehensive
25 water management and control plans for the lands located within the district that will be
26 improved in any part or in whole by any system of facilities that may be outlined and
27 adopted, and the engineer shall make a report in writing to the board with maps and
28 profiles of such surveys and an estimate of the cost of carrying out and completing the
29 plans;

30 (2) Upon the completion of such plans, the board shall hold a hearing to hear objections,
31 shall give notice of the time and place fixed for such hearing by publication once each
32 week for two consecutive weeks immediately preceding such hearing in the legal organ
33 of the county in which the district is located, and shall permit the inspection of the plans
34 at the office of the district by all interested persons. All objections to the plans shall be
35 filed at or before the time fixed in the notice for the hearing and shall be in writing;

1 (3) After the hearing, the board shall consider the proposed plans and any objections to
2 them and may modify, reject, or adopt the plans or continue the hearing to a day certain
3 for further consideration of the proposed plans or modifications of the plans; and

4 (4) When the board approves a plans, a resolution shall be adopted and a certified copy
5 of such resolution shall be filed in the office of the secretary and incorporated by him or
6 her into the records of the district.

7 36-76-12.

8 In addition to the other powers provided for in this chapter, and not in limitation thereof,
9 the district shall have the power at any time, and from time to time after the issuance of any
10 bonds of the district shall have been authorized, to borrow money for the purposes for
11 which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale
12 of such bonds and to issue bond anticipation notes in a principal sum not in excess of the
13 authorized maximum amount of such bond issue. Such notes shall be in such denomination
14 or denominations, bear interest at such rate as the board may determine, mature at such
15 time or times not later than five years from the date of issuance, and be in such form and
16 executed in such manner as the board shall prescribe. Such notes may be sold at either
17 public or private sale or, if such notes shall be renewal notes, may be exchanged for notes
18 then outstanding on such terms as the board shall determine. Such notes shall be paid from
19 the proceeds of such bonds when issued. The board may, in its discretion, in lieu of
20 retiring the notes by means of bonds, retire them by means of current revenues or from any
21 taxes or assessments levied for the payment of such bonds; but in such event a like amount
22 of the bonds authorized shall not be issued.

23 36-76-13.

24 The district at any time may obtain loans, in such amount and on such terms and conditions
25 as the board may approve, for the purpose of paying any of the expenses of the district or
26 any costs incurred or that may be incurred in connection with any of the projects of the
27 district, which loans shall bear such interest as the board may determine, and may be
28 payable from and secured by a pledge of such funds, revenues, taxes, and assessments as
29 the board may determine, subject, however, to the provisions contained in any proceeding
30 under which bonds were theretofore issued and are then outstanding. For the purpose of
31 defraying such costs and expenses, the district may issue negotiable notes, warrants, or
32 other evidences of debt to be payable at such times, to bear such interest as the board may
33 determine, and to be sold or discounted at such price or prices not less than 95 percent of
34 par value and on such terms as the board may deem advisable. The board shall have the

1 right to provide for the payment thereof by pledging the whole or any part of the funds,
2 revenues, taxes, and assessments of the district.

3 36-76-14.

4 (a) Bonds issued under the provisions of this chapter shall not constitute a debt or a pledge
5 of the faith and credit of the State of Georgia or any county or municipality in which the
6 district is located; but such bonds shall be payable from the taxes, fees, assessments,
7 rentals, revenue, earnings, and funds of the district as provided in the resolution, trust
8 agreement, or indenture authorizing the issuance and securing the payment of such bonds;
9 and the issuance of such bonds shall not directly, indirectly, or contingently obligate the
10 state or any county or municipality to levy or pledge any form of taxation whatever for the
11 payment thereof. No holder of any bond or receiver or trustee in connection therewith shall
12 have the right to enforce the payment thereof against any property of the state or any
13 county or municipality, nor shall any such bond constitute a charge, lien, or encumbrance,
14 legal or equitable, upon any such property. All such bonds shall contain on their face a
15 recital setting forth substantially the foregoing provisions of this Code section.

16 (b) In the event that a district defaults on its obligations, landowners within the district
17 shall only be responsible for obligations related to the district that are associated with their
18 property and not the obligations of the district as a whole or the obligations of any other
19 landowner. Landowners of the district shall have the right to satisfy or make arrangements
20 to satisfy the proportionate share of obligations related to the district and any related
21 reasonable interest apportioned among the parcels of property of the district.

22 36-76-15.

23 In the discretion of the district, any issue of bonds may be secured by an agreement or
24 indenture made by the district with a corporate trustee, which may be any trust company
25 or bank having the powers of a trust company inside or outside the State of Georgia. Such
26 trust agreement or indenture may pledge and assign taxes, assessments, rents, fees, charges,
27 revenues, and earnings to be received by the district. The resolution providing for the
28 issuance of bonds and such trust agreement or indenture may contain provisions for
29 protecting and enforcing the rights and remedies of the bondholders, including the right of
30 appointment of a receiver upon default of the payment of any principal or interest
31 obligation and the right of any receiver or trustee to enforce collection of any taxes,
32 assessments, rents, fees, charges, or revenues for use of the project or projects necessary
33 to pay all costs of operation and all reserves provided for, all principal and interest on all
34 bonds of the issue, all costs of collection, and all other costs reasonably necessary to
35 accomplish the collection of such sums in the event of any default of the district. Such

1 resolution and such trust agreement or indenture may include covenants setting forth the
2 duties of the district in relation to the acquisition of property for and construction of the
3 project and to the custody, safeguarding, and application of all funds and covenants
4 providing for the operation, maintenance, repair, and insurance of the project or projects
5 and may contain provisions concerning the conditions, if any, upon which additional bonds
6 may be issued. Such trust agreement or indenture may set forth the rights and remedies of
7 the bondholders and of the trustee and may restrict the individual right of action of
8 bondholders as is customary in securing bonds and debentures of corporations and may
9 contain such other provisions as the district may deem reasonable and proper for the
10 security of the bondholders. All expenses incurred in carrying out such trust may be
11 treated as a part of the cost of maintenance, operation, and repair of the project affected by
12 such trust.

13 36-76-16.

14 Pursuant to proper resolution of the district, the district shall have the authority to issue
15 general obligation bonds payable from taxes, fees, and assessments of the district pursuant
16 to this chapter and revenue bonds payable from the rents and revenues of the district and
17 its projects. Such bonds may be issued in either fully negotiable coupon form, in which
18 event they shall have all the qualities and incidents of negotiable instruments under the law
19 of Georgia, or they may be issued in whole or in part in nonnegotiable fully registered form
20 without coupons, payable to a designated payee or to the registered assigns of the payee
21 with such conversion privileges as the district may provide, for the purpose of paying all
22 or any part of the cost associated with the projects authorized by the district, including the
23 cost of constructing, reconstructing, equipping, extending, adding to, or improving such
24 projects, or for the purpose of refunding, as herein provided, any such bonds of the district
25 theretofore issued. If the proceeds of the bonds of any issue shall exceed the amount
26 required for the purpose for which such bonds were issued, the surplus shall be paid into
27 the fund provided for the payment of principal and interest on such bonds. All such bonds
28 shall be issued and validated under and in accordance with the procedure of Chapter 82 of
29 Title 36 and in accordance with all terms and provisions thereof not in conflict with this
30 Code section and in accordance with Code Section 50-17-1, relating to use of facsimile
31 signatures on public securities, and, as security for the payment of any bonds so authorized,
32 any taxes, fees, assessments, rents, and revenues of the district may be pledged and
33 assigned. Such bonds are declared to be issued for an essential public and governmental
34 purpose, and such bonds and all income therefrom shall be exempt from all taxation within
35 the State of Georgia.

1 36-76-17.

2 The district is authorized to provide by resolution for the issuance of revenue bonds of the
3 district for the purpose of calling, refunding, or refinancing any bonds issued under the
4 provisions hereof and then outstanding and to include in the amount of such refunding
5 bonds all interest and any call premiums that may be required for the redemption and
6 refunding of such outstanding bonds.

7 36-76-18.

8 Any action to protect or enforce any rights under the provisions hereof or any action
9 against the district brought in the courts of the State of Georgia shall be brought in the
10 superior court of the county in which the district is located; and any action pertaining to
11 validation of any bonds issued under the provisions hereof shall be brought in such court,
12 which shall have exclusive, original jurisdiction of such actions.

13 36-76-19.

14 The petition for validation of all bonds of the district shall be brought against the district
15 and any contracting party whose obligation is pledged as security for the payment of the
16 bonds sought to be validated as defendants, and the defendants shall be required to show
17 cause, if any exists, why such contract or contracts and the terms and conditions thereof
18 shall not be adjudicated to be in all respects valid and binding upon such contracting
19 parties. It shall be incumbent upon such defendants to defend against adjudication of the
20 validity and binding effect of such contract or contracts or be forever bound thereby.
21 Notice of such proceedings shall be included in the notice of the validation hearing
22 required to be issued and published by the clerk of the superior court of the county in which
23 court such validation proceedings shall be initiated.

24 36-76-20.

25 While any of the bonds issued by the district remain outstanding, the powers, duties, or
26 existence of the district or of its officers, employees, or agents shall not be diminished,
27 impaired, or affected in any manner that will affect adversely the interest and rights of the
28 holders of such bonds. The provisions of this Code section shall be for the benefit of the
29 district and the holders of any such bonds and, upon the issuance of bonds under the
30 provisions hereof, shall constitute a contract with the holders of such bonds.

31 36-76-21.

32 The revenue, rents, and earnings derived from any particular project or projects and any
33 and all revenue, rents, and earnings received by the district, regardless of whether such

1 revenue, rents, and earnings were produced by a particular project for which bonds have
2 been issued, unless otherwise pledged, may be pledged by the district to payment of the
3 principal of and interest on bonds of the district as may be provided in any resolution
4 authorizing the issuance of such bonds or in any trust instrument pertaining to such bonds,
5 and such funds so pledged, from whatever source received, may include funds received
6 from one or more or all sources and may be set aside at regular intervals into sinking funds
7 for which provision may be made in any such resolution or trust instrument and which may
8 be pledged to and charged with the payment of (1) the interest upon such bonds as such
9 interest shall become due, (2) the principal of the bonds as the same shall mature, (3) the
10 necessary charges of any trustee or paying agent for paying such principal and interest, and
11 (4) any premium upon bonds retired by call or purchase; and the use and disposition of any
12 sinking fund may be subject to such regulation as may be provided for in the resolution
13 authorizing the issuance of the bonds or in the trust instrument securing the payment of the
14 same.

15 36-76-22.

16 (a) When any district desires to undertake any additional project, an election shall be
17 called and held in accordance with this Code section to approve such project and any debt
18 to be incurred therewith. Notwithstanding the foregoing, the district shall be authorized
19 to make reasonable expenditures related to studying the feasibility, costs, and maintenance
20 of such additional projects and the hearing and election required by this Code section.

21 (b) A public hearing on the proposed additional project shall be conducted by the board.
22 The board shall present information related to the proposed additional project, including
23 the estimated costs to construct and operate and maintain the additional project, planned
24 financing mechanisms to be used by the district to pay for the additional project, and the
25 estimated cost per parcel for the additional project. The hearing shall be open to the public
26 and provide opportunity for oral and written comments on the additional project by the
27 landowners of the district and the appropriate local government. The hearing shall be held
28 at an accessible location in the county or counties in which the district is located. The
29 board shall cause a notice of hearing to be published in the legal organ of the county or
30 municipality wherein the district's land lies at least once a week for the four successive
31 weeks immediately prior to the hearing. The notice shall give the time and place for the
32 hearing; a description of the additional project, including, but not limited to, the estimated
33 costs to construct and operate and maintain the additional project; planned financing
34 mechanisms to be used by the district to pay for the additional project; and the estimated
35 cost per parcel for the additional project.

1 (c) During the public hearing required pursuant to subsection (b) of this Code section, the
 2 board shall establish a date to hold an election of the qualified electors of the district on the
 3 additional project, such date shall be no more than six weeks following the public hearing.
 4 The board shall give notice for not less than 21 days immediately preceding the day of the
 5 election in the legal organ of the county or municipality having jurisdiction over the
 6 district, notifying the qualified electors that, on the date named, an election will be held to
 7 determine the question of whether to undertake the additional project. The notice shall
 8 describe the additional project and specify the estimated costs to construct and operate and
 9 maintain the additional project; planned financing mechanisms to be used by the district
 10 to pay for the additional project, and the estimated cost per parcel for the additional project.

11 (d) The election provided for in this Code section shall be held by the same persons and
 12 in the same manner as elections for board members pursuant to Code Section 36-76-4. If
 13 a majority of those qualified electors of the district voting at the election approve the
 14 additional project, then the board shall be authorized to incur debt to finance the additional
 15 project. If the additional project is approved, the board shall amend the public disclosures
 16 required by this chapter to reflect the new maximum amount of fees and assessments
 17 related to initial costs and additional projects by apportioning the costs per parcel.

18 (e) Nothing contained in this Code section shall be construed so that a violation thereof
 19 shall affect the validity of any bonds issued under this chapter.

20 36-76-23.

21 The exercise of the powers conferred upon the district pursuant to this chapter shall
 22 constitute an essential governmental function for a public purpose, and the district shall be
 23 required to pay no taxes or assessments upon any of the property acquired by it or under
 24 its jurisdiction, control, possession, or supervision or upon its activities in the operation and
 25 maintenance of property acquired by it or of buildings erected or acquired by it or any fees,
 26 rents, or other charges for the use of such property or buildings or other income received
 27 by the district. The tax exemption provided by this Code section shall not include an
 28 exemption from sales and use tax on property purchased by or for the use of the district.

29 36-76-24.

30 All funds received by the district, whether as proceeds from the sale of bonds or as
 31 revenue, rents, fees, charges, or other earnings or as grants, gifts, or other contributions,
 32 shall be deemed to be trust funds to be held and applied by the district, solely as provided
 33 in this chapter; and the bondholders entitled to receive the benefits of such funds shall have
 34 a lien on all such funds until the same are applied as provided for in any such resolution or
 35 trust instrument of the district.

1 36-76-25.

2 (a) Subject to the provisions of Chapter 5 of Title 48, the board shall have the power to
3 levy and assess an ad valorem tax on all the taxable property in the district, excluding all
4 property used for agricultural or forestry purposes, to construct, operate, and maintain
5 assessable improvements; to pay the principal of, and interest on, any general obligation
6 bonds of the district; and to provide for any sinking or other funds established in
7 connection with any such bonds. An ad valorem tax levied by the board for operating
8 purposes, exclusive of debt service on bonds, shall not exceed 5 mills. The ad valorem tax
9 provided for in this Code section shall be in addition to county and all other ad valorem
10 taxes provided for by law. Such tax shall be assessed, levied, and collected in the same
11 manner and same time as county taxes. The total amount of taxes, fees, and assessments
12 levied by the district shall not exceed 2.5 percent of the assessed value of the real property
13 in the district.

14 (b) The board shall annually determine, order, and levy the annual installment of the total
15 benefit special assessments for bonds issued and related expenses to finance district
16 facilities and projects which are levied under this chapter. These assessments may be due
17 and collected during each year that county taxes are due and collected, in which case such
18 annual installment and levy shall be evidenced to and certified to the property appraiser by
19 the board not later than August 31 of each year, and such assessment shall be entered on
20 the county tax rolls, and shall be collected and enforced by the tax collector or tax
21 commissioner in the same manner and at the same time as county taxes, and the proceeds
22 thereof shall be paid to the district. These benefit special assessments shall be a lien on the
23 property against which assessed until paid and shall be enforceable in like manner as
24 county taxes. The amount of the assessment for the exercise of the district's powers shall
25 be determined by the board and assessed by the board upon such lands, which may be part
26 or all of the lands within the district benefited by the improvement, apportioned between
27 benefited lands in proportion to the benefits received by each tract of land.

28 (c) To maintain and preserve the facilities and projects of the district, the board may levy
29 a maintenance special assessment. This assessment may be evidenced to and certified to
30 the county by the board not later than August 31 of each year and shall be entered on the
31 county tax rolls and shall be collected and enforced by the tax collector or tax
32 commissioner in the same manner and at the same time as county taxes, and the proceeds
33 therefrom shall be paid to the district. These maintenance special assessments shall be a
34 lien on the property against which assessed until paid and shall be enforceable in like
35 manner as county taxes. The amount of the maintenance special assessment for the
36 exercise of the district's powers shall be determined by the board and assessed by the board
37 upon such lands, which may be all of the lands within the district benefited by the

1 maintenance thereof, apportioned between the benefited lands in proportion to the benefits
2 received by each tract of land. Maintenance special assessments shall not include costs
3 associated with pay-for-service arrangements, such as payments for utility or water service.

4 (d) The collection and enforcement of all taxes and assessments levied by the district shall
5 be at the same time and in like manner as county taxes.

6 (e) All taxes and assessments provided for in this chapter shall become delinquent and bear
7 penalties on the amount of such taxes and assessments in the same manner as county taxes.

8 (f) Benefit special assessments and maintenance special assessments authorized by this
9 Code section shall constitute a lien on the property against which assessed from the date
10 of imposition thereof until paid, coequal with the lien of state, county, municipal, and
11 school board taxes. These non-ad valorem assessments shall be collected by the tax
12 collector or tax commissioner of the county in which the district is located or in accordance
13 with other collection measures provided by law.

14 (g) Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem
15 assessments under this chapter by a board of a district on property of a governmental entity
16 that is subject to a ground lease as described in paragraph (14) of Code Section 36-76-2
17 shall constitute a lien or encumbrance on the underlying fee interest of such governmental
18 entity.

19 (h) The county shall be reimbursed for the actual and reasonable expenses of collecting
20 taxes and assessments on behalf of the district. The rate shall be in accordance with a
21 contract entered into between the appropriate local government and the district.

22 36-76-26.

23 All taxes of the district provided for in this chapter, together with all penalties for default
24 in the payment of the same and all costs in collecting the same, including a reasonable
25 attorney's fee fixed by the court and taxed as a cost in the action brought to enforce
26 payment, shall, from January 1 for each year the property is liable to assessment and until
27 paid, constitute a lien of equal dignity with the liens for state and county taxes and other
28 taxes of equal dignity with state and county taxes upon all the lands against which such
29 taxes shall be levied. A sale of any of the real property within the district for state and
30 county or other taxes shall not operate to relieve or release the property so sold from the
31 lien for subsequent district taxes or installments of district taxes, which lien may be
32 enforced against such property as though no such sale thereof had been made. Likewise,
33 a sale of any of the real property within the district for district taxes shall not operate to
34 relieve or release the property so sold from any lien for taxes imposed by other
35 governmental entities, which lien may be enforced against such property as though no such
36 sale thereof had been made.

1 36-76-27.

2 (a) All public works contracts shall be made in accordance with the provisions of
3 Chapter 91 of this title.

4 (b) All contracts let by the board for any goods, supplies, or materials to be purchased
5 when the amount thereof to be paid by the district shall exceed \$100,000.00 shall require
6 that a notice of bids shall be advertised twice in the legal organ of the county allowing a
7 reasonable amount of time for responsive bids to be submitted and shall be subject to this
8 Code section. The bid of the lowest responsive and responsible bidder shall be accepted
9 unless all bids are rejected because the bids are too high or the board determines it is in the
10 best interests of the district to reject all bids. The board may require the bidders to furnish
11 bond with a responsible surety to be approved by the board.

12 (c) All contracts for operations, maintenance, and management of projects of the district
13 shall contain the following provisions:

14 (1) The contract shall terminate absolutely and without further obligation on the part of
15 the district at the close of the calendar year in which it was executed and at the close of
16 each succeeding calendar year for which it may be renewed; and

17 (2) The contract may provide for automatic renewal unless positive action is taken by the
18 district to terminate such contract and the nature of such action shall be determined by
19 the district and shall be specified in the contract.

20 36-76-28.

21 The district shall have the same immunity and exemption from liability for torts and
22 negligence as the State of Georgia; and the officers, agents, and employees of the district,
23 when in performance of work of the district, shall have the same immunity and exemption
24 from liability for torts and negligence as officers, agents, and employees of the State of
25 Georgia.

26 36-76-29.

27 (a) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or
28 other charges and to revise the same from time to time for the facilities and services
29 furnished by the district, within the limits of the district, including, but not limited to,
30 recreational facilities, water management and control facilities, and water and sewer
31 systems; to recover the costs of making connection with any district facility or system; and
32 to provide for reasonable penalties against any user or property for any such rates, fees,
33 rentals, or other charges that are delinquent.

34 (b) No such rates, fees, rentals, or other charges for any of the facilities or services of the
35 district shall be fixed until after a public hearing at which all the users of the proposed

1 facility or services or owners, tenants, or occupants served or to be served thereby and all
2 other interested persons shall have an opportunity to be heard concerning the proposed
3 rates, fees, rentals, or other charges. Notice of such public hearing setting forth the
4 proposed schedule or schedules of rates, fees, rentals, and other charges shall be published
5 in the legal organ of the county in which the district is located for two weeks immediately
6 preceding such public hearing. The hearing may be adjourned from time to time. After
7 such hearing, such schedule or schedules, either as initially proposed or as modified or
8 amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees,
9 rentals, or charges as finally adopted shall be kept on file in an office designated by the
10 board and shall be open at all reasonable times to public inspection. The rates, fees,
11 rentals, or charges so fixed for any class of users or property served shall be extended to
12 cover any additional users or properties thereafter served which shall fall in the same class,
13 without the necessity of any notice or hearing.

14 (c) Such rates, fees, rentals, and charges shall be just and equitable and uniform for users
15 of the same class and, when appropriate, may be based or computed either upon the amount
16 of service furnished, upon the number of average number of persons residing or working
17 in or otherwise occupying the premises served, or upon any other factor affecting the use
18 of the facilities furnished, or upon any combination of the foregoing factors, as may be
19 determined by the board on an equitable basis.

20 (d) The rates, fees, rentals, or other charges prescribed shall be such as will produce
21 revenues, together with any other assessments, taxes, revenues, or funds available or
22 pledged for such purpose, at least sufficient to provide for the following items, but not
23 necessarily in the following order:

24 (1) To provide for all expenses of operation and maintenance of such facility or service;

25 (2) To pay when due all bonds and interest thereon for the payment of which such
26 revenues are, or shall have been, pledged or encumbered, including reserves for such
27 purpose; and

28 (3) To provide for any other funds which may be required under the resolution or
29 resolutions authorizing the issuance of bonds pursuant to this chapter.

30 (e) The board shall have the power to enter into contracts for the use of the projects of the
31 district and with respect to the services and facilities furnished or to be furnished by the
32 district.

33 (f) In the event that any rates, fees, rentals, charges, or delinquent penalties shall not be
34 paid as and when due and shall be in default for 60 days or more, the unpaid balance
35 thereof and all interest accrued thereon, together with reasonable attorney's fees and costs,
36 may be recovered by the district in a civil action.

1 (g) In the event the fees, rentals, or other charges for water and sewer services, or either
2 of them, are not paid when due, the board shall have the power, under such reasonable rules
3 and regulations as the board may adopt, to discontinue and shut off both water and sewer
4 services until such fees, rentals, or other charges, including interest, penalties, and charges
5 for the shutting off and discontinuance and the restoration of such water and sewer services
6 or both, are fully paid; and, for such purposes, the board may enter on any lands, waters,
7 or premises of any person, firm, corporation, or body, public or private, within the district
8 limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and
9 charges for the shutting off and discontinuance and the restoration of such services and
10 facilities and reasonable attorney's fees and other expenses, may be recovered by the
11 district, which may also enforce payment of such delinquent fees, rentals, or other charges
12 by any other lawful method of enforcement.

13 36-76-30.

14 The board or any aggrieved person may have recourse to such remedies in law and at
15 equity as may be necessary to ensure compliance with the provisions of this chapter,
16 including injunctive relief to enjoin or restrain any person violating the provisions of this
17 chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this
18 chapter. In case any building or structure is erected, constructed, reconstructed, altered,
19 repaired, converted, or maintained, or any building, structure, land, or water is used, in
20 violation of this chapter or of any code, order, resolution, or other regulation made under
21 authority conferred by this chapter or under law, the board or any citizen residing in the
22 district may institute any appropriate action or proceeding to prevent such unlawful
23 erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
24 to restrain, correct, or avoid such violation; to prevent the occupancy of such building,
25 structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about
26 such premises, land, or water.

27 36-76-31.

28 All property owned by the district shall be exempt from levy and sale by virtue of an
29 execution, and no execution or other judicial process shall issue against such property, nor
30 shall any judgment against the district be a charge or lien on its property or revenues;
31 however, nothing contained herein shall apply to or limit the rights of bondholders to
32 pursue any remedy for the enforcement of any lien or pledge given by the district in
33 connection with any of the bonds or obligations of the district.

1 36-76-32.

2 (a) The board may petition to contract or expand the boundaries of a district in the
3 following manner:

4 (1) The petition shall contain the same information required by subsection (b) of Code
5 Section 36-76-3. In addition, if the petitioner seeks to expand the district, the petition
6 shall describe the proposed timetable for construction of any district services to the area,
7 the estimated cost of constructing the proposed services, and the designation of the future
8 general distribution, location, and extent of public and private uses of land proposed for
9 the area by the future land use plan element of the adopted local government local
10 comprehensive plan. If the petitioner seeks to contract the district, the petition shall
11 describe what services and facilities are currently provided by the district to the area
12 being removed, and the designation of the future general distribution, location, and extent
13 of public and private uses of land proposed for the area by the future land element of the
14 adopted local government comprehensive plan;

15 (2) The petition shall be filed with the appropriate local government. A public hearing
16 shall be held in the same manner and with the same public notice as other resolutions.
17 However, such public hearing shall be limited to consideration of the contents of the
18 petition and whether the petition for amendment should be supported by the appropriate
19 local government. The appropriate local government shall consider the record of the
20 public hearing and the factors set forth in subsection (g) of Code Section 36-76-3 in
21 making its determination to grant or deny the petition;

22 (3) Prior to filing the petition, the petitioner shall pay a filing fee of \$1,500.00 to the
23 appropriate local government. In addition, if the district is not the petitioner, the
24 petitioner shall file the petition with the district board of supervisors;

25 (4) A resolution amending a district boundary shall describe the land to be added or
26 deleted; and

27 (5) In all cases, written consent of all the landowners whose land is to be added to or
28 deleted from the district shall be required. The filing of the petition for expansion or
29 contraction by the district board of supervisors shall constitute consent of the landowners
30 within the district other than of landowners whose land is proposed to be added to or
31 removed from the district.

32 (b) Petitions to amend the boundaries of a district pursuant to this Code section shall be
33 limited to a cumulative total of no more than 50 percent of the land in the initial district,
34 and in no event shall all such petitions to amend the boundaries ever encompass more than
35 a total of 500 acres.

36 (c) The district shall remain in existence unless:

1 (1) The district is merged with another district as provided in subsection (d) of this Code
2 section;

3 (2) All of the specific community development systems, facilities, and services that it is
4 authorized to perform have been transferred to the appropriate local government in the
5 manner provided in subsection (e) of this Code section; or

6 (3) The district is dissolved as provided in subsection (f) of this Code section.

7 (d) The district may merge with other residential community improvement districts within
8 the county upon filing a petition for establishment of a new residential community
9 improvement district pursuant to Code Section 36-76-3. The district formed by a merger
10 of two or more districts pursuant to this subsection shall assume all indebtedness of, and
11 receive title to, all property owned by the preexisting district or districts. Prior to filing
12 such petition, the districts desiring to merge shall enter into a merger agreement and shall
13 provide for the proper allocation of the indebtedness so assumed and the manner in which
14 said debt shall be retired. The approval of the merger agreement by the board shall
15 constitute consent of the landowners within the district.

16 (e)(1) The appropriate local government in which the district lies may adopt a resolution
17 providing for a plan for the transfer of a specific community development service from
18 a district to the appropriate local government. The plan must provide for the assumption
19 and guarantee of the district debt that is related to the service by the appropriate local
20 government and must demonstrate the ability of the appropriate local government to
21 provide such service:

22 (A) As efficiently as the district;

23 (B) At a level of quality equal to or higher than the level of quality actually delivered
24 by the district to the users of the service; and

25 (C) At a charge equal to or lower than the actual charge by the district to the users of
26 the service.

27 (2) No later than 30 days following the adoption of a transfer plan ordinance, the board
28 of supervisors may file, in the superior court for the county in which the district is
29 located, a petition seeking review of the factual and legal basis for the adoption of the
30 transfer plan ordinance.

31 (3) Upon the transfer of all of the community development services of the district to the
32 appropriate local government, the district shall be terminated in accordance with a plan
33 of termination which shall be adopted by the board of supervisors and filed with the clerk
34 of the superior court.

35 (f)(1) If, within five years after the effective date of the resolution establishing the
36 district, a landowner has not received a development permit on some or all of the area
37 covered by the district, then the district will be automatically dissolved and a judge of the

1 superior court of the county in which such district is located shall cause a statement to
2 that effect to be filed in the public records of the clerk of superior court.

3 (2) If a district has no outstanding financial obligations and no operating or maintenance
4 responsibilities, upon the petition of the district, the district may be dissolved by a
5 resolution of the appropriate local government that established the district.

6 36-76-33.

7 (a) A district may be incorporated as a municipality by the General Assembly in
8 accordance with the provisions of law governing the incorporation of municipalities. Upon
9 being incorporated, the district shall be dissolved and all obligations, debts, property, and
10 responsibilities of the district shall be transferred to the municipality.

11 (b) Any district contiguous to the boundary of a municipality may be annexed to such
12 municipality pursuant to the provisions of Chapter 36 of this title. Upon being annexed,
13 the district shall be dissolved and all obligations, debts, property, and responsibilities of the
14 district shall be transferred to the annexing municipality.

15 36-76-34.

16 (a) Subsequent to the establishment of a district under this chapter, each contract for the
17 sale of a parcel of real property and each contract for the sale of a residential unit within
18 the district shall include, immediately prior to the space reserved in the contract for the
19 signature of the purchaser, the following disclosure statement in boldface and conspicuous
20 type which is larger than the type in the remaining text of the contract:

21 **'THE PROPERTY THAT YOU ARE ABOUT TO PURCHASE OR LEASE IS**
22 **WITHIN THE (Name of District) RESIDENTIAL COMMUNITY IMPROVEMENT**
23 **DISTRICT. THE (Name of District) RESIDENTIAL COMMUNITY**
24 **IMPROVEMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR**
25 **ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.**
26 **CERTAIN OF THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS**
27 **OF THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS.**
28 **ALTHOUGH SUBJECT TO SOME FLUCTUATION, THESE TAXES AND**
29 **ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL**
30 **NOT EXCEED \$ _____ PER YEAR. ADDITIONAL TAXES AND**
31 **ASSESSMENTS MAY PAY THE OPERATION AND MAINTENANCE OF**
32 **DISTRICT PROJECTS AND SUCH COSTS ARE CAPPED BY LAW. DISTRICT**
33 **TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER**
34 **LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER**
35 **TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.'**

1 (b) Within 30 days after the effective date of a resolution establishing a residential
 2 community improvement district under this chapter, the district shall cause to be recorded
 3 in the property records in the county in which it is located a 'Notice of Establishment of the
 4 _____ Residential Community Improvement District.' The notice shall, at a
 5 minimum, include the legal description of the district and a copy of the disclosure
 6 statement set forth in subsection (a) of this Code section.

7 (c) In addition to the notice required in subsection (a) of this Code section, the seller of any
 8 parcel of real property shall provide a separate, clearly identified, written notice to the
 9 prospective purchaser when such purchaser expresses serious interest in the property by a
 10 written offer to purchase such property, no less than ten business days prior to the closing
 11 on such property, and not more than ten days nor less than three days prior to closing, that
 12 contains the following information:

13 (1) The warning provided in subsection (a) of this Code section;

14 (2) A reasonable estimate of the dollar amounts for the first three years for each tax,
 15 bond obligation, assessment, and fee derived from district obligations;

16 (3) A disclosure of any agreement between a developer and the district or any other party
 17 which could have a current or potential significant financial impact on current or future
 18 residents of the district with the next ten years;

19 (4) A listing and explanation in plain language of any restrictions and covenants applying
 20 to the property; and

21 (5) A disclosure and explanation of all obnoxious, troublesome, or unsavory physical
 22 properties or characteristics of, on, or in the surrounding land within the district.

23 The person providing such notice shall obtain a written receipt from the buyer when
 24 delivering such notice.

25 36-76-35.

26 (a) Article 2 of Chapter 70 of this title shall not apply to districts established under this
 27 chapter; provided, however, that a local government or local government authority that is
 28 the designated provider of a service for the area in which a district is to be located pursuant
 29 to an agreement governed by Article 2 of Chapter 70 of this title or Article IX, Section III,
 30 Paragraph I of the Constitution shall receive a copy of the petition filed with the
 31 appropriate local government within five days of submission by the petitioner to the
 32 appropriate local government and shall have the right of first refusal to provide the service
 33 to the district. Such right of first refusal shall be exercised within 30 days of receipt of the
 34 petition and such decision shall be communicated to the appropriate local government no
 35 fewer than ten days before its public hearing on the petition. A local government's or local
 36 government authority's requirement that the district pay the costs of any infrastructure

1 necessary to provide the service to the district, including the costs of connecting district
 2 infrastructure to existing infrastructure and any additional costs of providing the service
 3 that would otherwise be borne by the existing tax base, as well as any requirements that the
 4 infrastructure meet the existing standards of the service provider used within the
 5 jurisdiction, shall not constitute refusal by the local government or local government
 6 authority to provide the service.

7 (b) Water or sewer fees charged to similarly situated customers located outside the
 8 geographic boundaries of a service provider and within the boundaries of a district shall not
 9 be higher than the fees charged to customers receiving such service which are located
 10 within the geographic boundaries of the service provider.

11 (c) If a district board disputes the reasonableness of water and sewer rate differentials
 12 imposed within the district by the designated service provider, the district board may hold
 13 a public hearing for the purpose of reviewing the rate differential. Following the
 14 preparation of a rate study by a qualified engineer, the district board may challenge the
 15 arbitrary rate differentials on behalf of its residents in a court of competent jurisdiction.
 16 Prior to such challenge, the dispute shall be submitted to some form of alternative dispute
 17 resolution.

18 36-76-36.

19 (a) The Department of Community Affairs shall have the authority to study and review
 20 all districts created pursuant to this chapter and shall report its findings to the General
 21 Assembly, to the Senate Committee on Economic Development, and the House
 22 Committee on Economic Development and Tourism by January 31 of each year.

23 (b) This Code section shall stand repealed on January 31, 2011."

24 **SECTION 2.**

25 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,
 26 is amended by striking subsection (a) of Code Section 12-5-30, relating to permits for
 27 construction, modification, or operation of facilities which discharge pollutants into waters,
 28 and inserting in lieu thereof a new subsection (a) to read as follows:

29 "(a) Any person who owns or operates a facility of any type or who desires to erect,
 30 modify, alter, or commence operation of a facility of any type which results or will result
 31 in the discharge of pollutants from a point source into the waters of the state shall obtain
 32 from the director a permit to make such discharge. Any person desiring to erect, modify,
 33 alter, or commence operation of a facility which will result in such discharge but which is
 34 not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the
 35 discharge of same. Any person who is operating a facility which results in such discharge

1 as of July 1, 1974, may continue to make such discharge pending final action by the
 2 director on the application for such discharge permit, provided that such application has
 3 been filed with the director by September 29, 1974; and provided, further, that such
 4 discharge does not present an immediate health hazard to the public. The director, under
 5 the conditions he or she prescribes, may require the submission of such plans,
 6 specifications, and other information as he or she deems relevant in connection with the
 7 issuance of such permits. The director may, after public notice and opportunity for public
 8 hearing, issue a permit which authorizes the person to make such discharge, upon condition
 9 that such discharge meets or will meet, pursuant to any schedule of compliance included
 10 in such permit, all water quality standards, effluent limitations, and all other requirements
 11 established pursuant to this article. The director shall give preference to existing permits
 12 or modification of existing permits in conformity with existing service delivery strategy
 13 agreements required in Chapter 70 of Title 36."

14 SECTION 3.

15 Said chapter is further amended by striking subsection (f) of Code Section 12-5-31, relating
 16 to permits for withdrawal, diversion, or impoundment of surface waters, and inserting in lieu
 17 thereof a new subsection (f) to read as follows:

18 "(f) In the event two or more competing applicants or users qualify equally under
 19 subsection (e) of this Code section, the director is authorized to grant permits to applicants
 20 or modify the existing permits of users for use of specified quantities of surface waters on
 21 a prorated or other reasonable basis in those situations where such action is feasible;
 22 provided, however, the director shall give preference to an existing use over an initial
 23 application, including preference to existing permits or modification of existing permits in
 24 conformity with existing service delivery strategy agreements required in Chapter 70 of
 25 Title 36."

26 SECTION 4.

27 Said chapter is further amended by striking subsection (b) of Code Section 12-5-96, relating
 28 to permits to withdraw, obtain, or use ground water, and inserting in lieu thereof a new
 29 subsection (b) to read as follows:

30 "(b) When sufficient evidence is provided by the applicant that the water withdrawn or
 31 used from the ground is not consumptively used, a permit therefor shall be issued by the
 32 division without a hearing and without the conditions provided in subsection (c) of this
 33 Code section. Applications for such permits shall set forth such facts as the division shall
 34 deem necessary to enable it to establish and maintain adequate records of all water uses.
 35 The director shall give preference to existing permits or modification of existing permits

1 in conformity with existing service delivery strategy agreements required in Chapter 70 of
2 Title 36."

3 **SECTION 5.**

4 This Act shall become effective on January 1, 2007, provided that an amendment to Article
5 IX of the state Constitution providing for the creation of residential community improvement
6 districts is passed and ratified in the 2006 November general election. Otherwise, this Act
7 shall stand repealed by operation of law on January 1, 2007.

8 **SECTION 6.**

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