

House Bill 1323 (COMMITTEE SUBSTITUTE)

By: Representatives O`Neal of the 146th, Keen of the 179th, Royal of the 171st, and Porter of the 143rd

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 provide for a comprehensive program for the creation of infrastructure development
3 districts; to provide for a short title; to provide for definitions; to provide for the powers,
4 duties, and authority of infrastructure development districts; to provide for a board to
5 administer infrastructure development districts; to provide for appointment or election of
6 members of an infrastructure development district board; to provide for levying taxes, fees,
7 and assessments; to provide for the debt of infrastructure development districts; to provide
8 for bonds, notes, and other obligations of infrastructure development districts; to provide for
9 the form of bonds; to provide for consolidation, termination, or dissolution of infrastructure
10 development districts; to provide for notice of the creation of the district; to amend Chapter
11 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to
12 change certain provisions regarding permits for discharging pollutants into waters; to change
13 certain provisions regarding permits for surface water withdrawal, diversion, or
14 impoundment; to change certain provisions regarding permits for withdrawing, obtaining,
15 or using ground water; to provide for related matters; to provide a contingent effective date;
16 to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and
17 for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
21 by adding a new chapter at the end thereof, to be designated as Chapter 93, to read as
22 follows:

"CHAPTER 93

1

2 36-93-1.

3 This chapter shall be known and may be cited as the 'Georgia Smart Infrastructure Growth
4 Act of 2006.'

5 36-93-2.

6 As used in this chapter, the term:

7 (1) 'Additional projects' means district projects beyond those generally identified in the
8 petition for creation of the district.

9 (2) 'Appropriate local government' means:

10 (A) The county governing authority, if the district is located wholly in the
11 unincorporated part of the county;

12 (B) The municipal governing authority, if the district is located wholly within a
13 municipality; or

14 (C) The county governing authority and each municipal governing authority, if the
15 district is located partially in the unincorporated area of a county and partially within
16 one or more municipalities

17 that created the district. For the purposes of this chapter, the term 'appropriate local
18 government' may be read as the singular or plural.

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

22 (4) 'Board' means the governing board of a district or, if the board has been abolished,
23 the board, body, or commission succeeding to the principal functions of the board.

24 (5) 'Bond' means any bonds of a district which are authorized to be issued under the
25 Constitution and laws of this state, but shall not include notes or other obligations of the
26 district.

27 (6) 'Cost,' when used with reference to any project, includes, but is not limited to:

28 (A) The expense of determining the feasibility or practicability of acquisition,
29 construction, or reconstruction;

30 (B) The cost of surveys, estimates, plans, and specifications;

31 (C) The cost of improvements and of insuring such improvements;

32 (D) Engineering, fiscal assessment, and legal expenses and charges;

33 (E) The cost of all labor, materials, machinery, and equipment;

34 (F) The cost of all lands, properties, rights, easements, and franchises acquired;

35 (G) Financing charges;

- 1 (H) The creation of operation and maintenance reserve funds, debt service reserve
 2 funds, repair and replacement reserve funds, and debt service funds;
- 3 (I) Working capital;
- 4 (J) Interest charges incurred or estimated to be incurred on money borrowed prior to
 5 and during construction and acquisition and for such reasonable period of time after
 6 completion of construction or acquisition as the board may determine;
- 7 (K) The cost of issuance of bonds pursuant to this chapter, including advertisements,
 8 printing, and credit enhancement and related interest rate swaps, hedges, or similar
 9 items, whether incurred in connection with the issuance of or after the issuance of
 10 bonds;
- 11 (L) The cost of any election held pursuant to this chapter;
- 12 (M) The discount, if any, on the sale or exchange of bonds;
- 13 (N) Administrative expenses;
- 14 (O) Such other expenses as may be necessary or incidental to the acquisition,
 15 construction, or reconstruction of any project or to the financing of any project, or to
 16 the development of any lands within a district; and
- 17 (P) Payments, contributions, and dedications required as a condition to receive any
 18 government approval or permit necessary to accomplish any district purpose or the
 19 exercise of any district power.
- 20 (7) 'Deed restrictions' means those covenants, conditions, and restrictions contained in
 21 any applicable deeds, agreements, or declarations of covenants and restrictions that
 22 govern the use and operation of real property within the district and, for such covenants,
 23 conditions, and restrictions, there is no homeowners' association or property owners'
 24 association having respective enforcement powers.
- 25 (8) 'District' means an infrastructure development district.
- 26 (9) 'District roads' means highways, streets, roads, alleys, sidewalks, bridges, and
 27 thoroughfares of all kinds and descriptions within a district, including any landscaping
 28 and storm drains associated therewith.
- 29 (10) 'Elector' means a landowner.
- 30 (11) 'Government member' means a member of the board named by a local government.
- 31 (12) 'Infrastructure development district' means a geographic area of development
 32 created pursuant to this chapter and limited to the performance of those specialized
 33 functions authorized by this chapter; the governing body of which is a board created and
 34 authorized to function specifically as prescribed in this chapter for the delivery of projects
 35 and the formation, powers, operation, duration, accountability, requirements for
 36 disclosure, and termination of which are as required by this chapter.

1 (13) 'Initial costs' means costs related to district projects generally identified in the
2 petition for creation of the district.

3 (14) 'Landowner' means any entity or person shown as a taxpayer for one or more parcels
4 of real estate in a district as reflected on the most recent ad valorem tax records in the
5 county or counties that have jurisdiction over the property included in the district as
6 certified by the tax commissioner of the county or counties.

7 (15) 'Petitioner member' means a member of the board named by the petitioner.

8 (16) 'Petitioner' means an entity, person, or group of persons who intends to create a
9 district.

10 (17) 'Project' means any development, improvement, property, utility, facility, works,
11 enterprise, or service existing on January 1, 2007, or thereafter undertaken or established
12 under this chapter.

13 (18) 'Qualified electors for additional projects of the district,' as used in Code Section
14 36-93-13, means landowners within the district who, at the time the district was created,
15 were not shown as a taxpayer for one or more parcels of real estate within the district on
16 the ad valorem tax records of the county or counties that have jurisdiction over the
17 property included in the district.

18 (19) 'Revenues' means the proceeds of taxes, assessments, rates, fees, rentals, or other
19 charges prescribed, fixed, established, and collected by the board for the projects
20 furnished by the district.

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

34 (21) 'Short-term borrowing' means a debt obligation of the district in the form of loan,
35 note, warrant, or other evidence with a maturity not to exceed five years.

36 (22) 'Water management and control facilities' means any lakes, canals, ditches,
37 reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works,

1 structures, or facilities for the conservation, control, development, utilization, and
 2 disposal of water, and any purposes appurtenant, necessary, or incidental to the facility
 3 serving a district. The term 'water management and control facilities' includes all real and
 4 personal property and any interest in the property, rights, easements, and franchises of
 5 any nature relating to any such water management and control facilities necessary or
 6 convenient for the acquisition, construction, reconstruction, operation, or maintenance
 7 of the water management and control facilities.

8 (23) 'Water system' means a system for the provision of piped water for human
 9 consumption within a district. Such term includes but is not limited to any collection,
 10 treatment, storage, and distribution facilities under the control of the operator of a water
 11 system and used primarily in connection with a water system and any collection or
 12 pretreatment storage facilities not under such control which are used primarily in
 13 connection with a water system. The term 'water system' includes all real and personal
 14 property and any interest in the property, rights, easements, and franchises of any nature
 15 relating to any such water system necessary or convenient for the acquisition,
 16 construction, reconstruction, operation, or maintenance of the water system.

17 36-93-3.

18 (a) An appropriate local government may exercise its authority under this chapter after
 19 holding a public hearing on this chapter and approving a resolution or ordinance that
 20 authorizes the local government to create and regulate districts as provided under this
 21 chapter.

22 (b) A petitioner who proposes to create a district within the jurisdiction of an appropriate
 23 local government that has authorized the creation and regulation of districts under this
 24 chapter shall file with the appropriate local government a petition requesting creation. The
 25 petition shall be signed by all holders of title of the taxable land within the proposed
 26 district, as determined by the most recent approved county ad valorem tax digest or
 27 documentation demonstrating that the petitioner has control, including but not limited to
 28 by deed, trust agreement, or contract, of the taxable land.

29 (c) The petition shall:

30 (1) Describe the boundaries of the proposed district by metes and bounds or by lot and
 31 block number if there is a recorded map or plat and survey of the area;

32 (2) Generally identify the proposed projects to be undertaken according to the
 33 petitioner's master plan for the district, the necessity for the projects, and the cost of the
 34 projects as then estimated by the petitioner;

35 (3) Include a name of the proposed district which shall be generally descriptive of the
 36 locale of the proposed district followed by the words 'Infrastructure Development

1 District,' or if a district is located within one county, it may be designated ' ____ County
2 Infrastructure Development District No. _____'; provided, however, that the proposed
3 district shall not have the same name as any other district in the same county;

4 (4) Include a designation of four persons to be the initial petitioner members of the board
5 who shall serve in that office until replaced by elected members as provided in this
6 chapter;

7 (5) Include a map of the proposed district showing current major trunk water mains and
8 sewer interceptors and outfalls, if any;

9 (6) Based upon available data, include the proposed timetable for construction of the
10 district services and the estimated cost of constructing the proposed services; these
11 estimates shall be submitted in good faith but shall not be binding and may be subject to
12 change; and

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

16 36-93-4.

17 (a) The petitioner shall submit a copy of the petition to the governing authority of the
18 appropriate local government, the boundaries of which are contiguous with, or contain all
19 or a portion of, the land within the external boundaries of the proposed district.

20 (b) A public hearing on the petition shall be conducted by the governing authority of the
21 appropriate local government which has jurisdiction over the land to be included in the
22 proposed district. The hearing shall include oral and written comments on the petition
23 pertinent to the proposed district, including the factors specified in subsection (c) of this
24 Code section. The hearing shall be held at an accessible location in the county or counties
25 in which the district is to be located. The petitioner shall cause a notice of the hearing to
26 be published in the legal organ of the county or municipality wherein the district's land lies
27 at least once a week for the four successive weeks immediately prior to the hearing. The
28 notice shall give the time and place for the hearing, a description of the area to be included
29 in the district, and any other relevant information which the governing authority of the
30 appropriate local government may require. All affected local governments and the general
31 public shall be given an opportunity to appear at the hearing and present oral or written
32 comments on the petition.

33 (c) The appropriate local government which has jurisdiction over the land to be included
34 in the district shall consider the entire record of the applicable hearing, the transcript of the
35 hearing, and applicable factors and shall make a determination to grant or deny the petition

1 for the establishment of a district. Such applicable factors shall include but are not limited
2 to:

3 (1) Whether the statements contained within the petition have been found to be true and
4 correct;

5 (2) Whether the area of land within the proposed district is of sufficient size, sufficiently
6 compact, and sufficiently contiguous to be developed as one functional interrelated
7 community;

8 (3) Whether creation of the district is a reasonable alternative for delivering community
9 infrastructure and facilities to the area that will be served by the district;

10 (4) Whether the community infrastructure and facilities of the district will be compatible
11 with the capacity and uses of existing local and regional community services and
12 facilities;

13 (5) Whether the proposed district projects are consistent with any applicable element or
14 portion of the county comprehensive plan;

15 (6) Whether the district is compatible with the appropriate local government in general
16 and will supplement rather than be a detriment to the general population; and

17 (7) Whether the district will result in an increase in taxes paid by existing taxpayers in
18 the county or municipality residing outside the district.

19 (d) The governing authority of the appropriate local government which has jurisdiction
20 over the land to be included in the district shall not adopt any resolution or ordinance which
21 would expand, modify, or delete any provision of this chapter. A resolution or ordinance
22 establishing a district shall:

23 (1) Describe the external boundaries of the district and any real property within the
24 boundaries of the district which is to be excluded;

25 (2) Name the persons designated to be the initial members of the board as described in
26 Code Section 36-93-5;

27 (3) Name the district; and

28 (4) Include other information required or authorized by this chapter.

29 (e)(1) The creation of a district pursuant to this chapter and the exercise of powers by or
30 through a district as authorized by this chapter shall not be subject to Article 2 of Chapter
31 70 of this title.

32 (2) A district created pursuant to this chapter is not a general purpose local government
33 and specifically shall not be included in the term 'local government' as that term is
34 defined in paragraph (5.2) of Code Section 36-70-2.

35 (3) The powers granted to a district pursuant to this chapter may be exercised by the
36 board upon execution of an agreement between the board and the appropriate local
37 government. Such agreements shall describe the services and facilities to be provided

1 within the district and the source of funding for such services and facilities and may be
2 amended at any time by mutual consent of the parties to the agreement.

3 36-93-5.

4 (a) The powers granted to a district pursuant to this chapter shall be exercised by the
5 board. Except as provided in this Code section, the board shall consist of at least five
6 members, and each member shall hold office for a term of four years and until a successor
7 is appointed or elected and qualified. All members of the board must be at least 18 years
8 old, a resident of this state, and a citizen of the United States. It shall not be a conflict of
9 interest under the Constitution or any laws of this state or its political subdivisions for
10 board members, employees, or officers of the district to be a landowner or a stockholder,
11 officer, director, partner, member, or employee of a landowner in the district. As provided
12 in this Code section, board members may also be required to be residents of the district.

13 (b) Unless expanded pursuant to this Code section, the initial board named under the
14 resolution or ordinance establishing the district pursuant to Code Section 36-93-4 shall be
15 comprised of four members named by the petitioner and one member chosen by each
16 appropriate local government that issues a resolution or ordinance creating the district. In
17 the event a district is created by a resolution or ordinance by more than one local
18 government, each appropriate local government may appoint one member to the board and
19 the petitioner may appoint one additional petitioner member per additional government
20 member.

21 (c)(1) Members of the board shall stand for election by electors pursuant to the following
22 schedule:

23 (A) All government members shall stand for election within six months of the sale to
24 the general public of land representing 20 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 first petitioner member shall stand for election within six months of the sale
28 to the general public of land representing 50 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 second petitioner member shall stand for election within six months of the sale
32 to the general public of land representing 80 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;

35 (D) The third petitioner member shall stand for election within six months of the sale
36 to the general public of land representing 90 percent of the geographic area within the

1 boundaries of the district. If any residents reside within the district at the time of the
2 election, only a resident of the district may qualify for election to this seat; and

3 (E) All remaining petitioner members shall stand for election within six months of the
4 sale to the general public of land representing 95 percent of the geographic area within
5 the boundaries of the district or within ten years after the effective date of the resolution
6 or ordinance establishing the district, whichever is sooner. If any residents reside
7 within the district at the time of the election, only a resident of the district may qualify
8 for election to this seat.

9 (2) The board shall organize district elections which shall be held at a meeting of the
10 electors of the district. Notice of the meeting and the election of board members shall be
11 published once a week for two consecutive weeks in the legal organ of the county or
12 municipality wherein the district's land lies, and the last day of such publication shall be
13 not fewer than 14 days nor more than 28 days before the meeting. The chairperson of the
14 board shall conduct the meeting. If the chairperson is an elector or proxy holder for an
15 elector, he or she may nominate candidates and make and second motions.

16 (3) At a district election, each elector shall be entitled to cast one vote per acre of land
17 owned by him or her and located within the district for each member to be elected. An
18 elector may vote in person or by a properly executed written proxy. Each proxy must be
19 signed by one of the landowners of the property for which the vote is cast and must
20 contain the typed or printed name of the individual who signed the proxy; the street
21 address, legal description of the property, or tax parcel identification number; and the
22 number of authorized votes. If the proxy authorizes more than one vote, each property
23 must be listed and the number of acres of each property must be included. The signature
24 on a proxy need not be notarized. A fraction of an acre shall be treated as one acre,
25 entitling the elector to one vote with respect thereto. Nominees for the board are elected
26 by a majority of votes cast in accordance with this paragraph.

27 (4) On or before June 1 of each year, the board shall determine the amount of land sold
28 within the district to the general public and the proportion of that land sold relative to the
29 overall amount of land within the district boundary for purposes of determining whether
30 any seats of the board shall be contested by election pursuant to this Code section. Such
31 determination shall be made at a meeting of the board and shall become part of the
32 official minutes of the district. Such calculation shall not consider land currently used
33 or identified for future use of district facilities, infrastructure, or other district-specific
34 purposes.

35 (5) Elections of board members shall be nonpartisan. Board members shall assume their
36 office immediately upon their election.

1 (d)(1) Members of the board shall hold office for the terms for which they were elected
2 or appointed and until their successors are chosen and qualified. If, during the term of
3 office, a vacancy occurs, the remaining members of the board shall fill the vacancy by
4 an appointment for the remainder of the unexpired term.

5 (2) Notwithstanding paragraph (1) of this subsection, a board may not appoint a person
6 to fill a vacancy on the board if the person:

7 (A) Resigned from the board:

8 (i) In the two years preceding the vacancy date; or

9 (ii) On or after the vacancy date but before the vacancy is filled; or

10 (B) Was defeated in a board election held by the district in the two years preceding the
11 vacancy date.

12 (e) A majority of the members of the board constitutes a quorum for the purposes of
13 conducting its business and exercising its powers and for all other purposes. Action taken
14 by the district shall be upon a vote of a majority of the members present unless general law
15 or a rule of the district requires a greater number.

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

19 (g) The board shall keep a permanent record book entitled 'Record of Proceedings of
20 (name of district) Infrastructure Development District,' in which shall be recorded minutes
21 of all meetings, resolutions, proceedings, certificates, and any and all corporate acts. The
22 record book shall be open to inspection at a reasonable time and place. The record book
23 shall be kept at the district office.

24 (h) All meetings of the board shall be open to the public and governed by the provisions
25 of Code Section 50-14-1. The board shall hold at least one annual meeting on the same
26 date every year, such date to be published as part of the resolution or ordinance creating
27 the district. The meeting shall address issues related to the district, including but not
28 limited to current projects, district finances, and potential future projects. In addition, the
29 board shall also make available to any person on an annual basis upon request a report of
30 the names and contact information of the board members, their employers, and their
31 relationships to other members of the board and to any officer or employee of the
32 developer. The requirements for such report shall terminate upon the election of the
33 majority of the board by the qualified electors of the district.

34 (i) The district and the board shall enjoy the same rights and responsibilities of sovereign
35 immunity as the state and its departments and agencies.

1 36-93-6.

2 (a) The board shall designate a resident of this state as treasurer of the district who shall
3 have charge of the funds of the district. Such funds shall be disbursed only upon the order,
4 or pursuant to the resolution, of the board. The board may give the treasurer additional
5 powers and duties as the board may deem appropriate and may fix his or her compensation.
6 The board may require the treasurer to give a bond in such amount, on such terms, and with
7 such sureties as may be deemed satisfactory to the board to secure the performance by the
8 treasurer of his or her powers and duties. The financial records of the board shall be audited
9 by an independent certified public accountant at least once a year. The results of such audit
10 shall be recorded in the district's record book and made available to the public pursuant to
11 subsection (g) of Code Section 36-93-5.

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

17 (c) The treasurer shall not be a current member of the board.

18 36-93-7.

19 (a) A district board shall set its fiscal year.

20 (b) At least 60 days prior to the adoption of the annual budget for the district, the treasurer
21 shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for
22 board approval. The proposed budget shall include at the direction of the board an estimate
23 of all necessary expenditures of the district for the ensuing fiscal year and an estimate of
24 income of the district from the taxes and assessments provided in this chapter. The board
25 shall consider the proposed budget item by item and may either approve the budget as
26 proposed by the treasurer or modify the same in part or in whole. The board shall indicate
27 its approval of the budget by resolution that shall provide for a hearing on the budget as
28 approved. Notice of the hearing on the budget shall be published in the legal organ of the
29 county in which the district is located once a week for two consecutive weeks immediately
30 preceding the date of the hearing. The notice shall further contain a designation of the date,
31 time, and place of the public hearing. At the time and place designated in the notice, the
32 board shall hear all objections to the budget as proposed and may make such changes as
33 the board deems necessary. At the conclusion of the budget hearing, the board shall, by
34 resolution, adopt the budget as finally approved by the board. The budget for the next fiscal
35 year shall be adopted no less than three months before end of the district's fiscal year.

1 (c) At least 60 days prior to adoption of the annual budget for the district, the board shall
2 submit to the appropriate local government, for purposes of disclosure and information
3 only, the proposed annual budget for the ensuing fiscal year and any proposed long-term
4 financial plan or program of the district for future operations. The appropriate local
5 government may review the proposed annual budget and any long-term financial plan or
6 program and may submit written comments to the board for its assistance and information
7 in adopting its annual budget and long-term financial plan or program.

8 36-93-8.

9 The district shall have, and the board may exercise, the following general powers:

10 (1) To sue and be sued in the name of the district; to adopt and use a seal and authorize
11 the use of a facsimile thereof; and to acquire, by purchase, devise, or otherwise, and to
12 dispose of real and personal property or any estate therein; however, pursuant to the
13 provisions of Code Section 36-93-9, the district shall not acquire property through
14 eminent domain;

15 (2) To make and execute contracts and other instruments necessary or convenient to the
16 exercise of its powers. All public works contracts shall be made in accordance with the
17 provisions of Chapter 91 of this title. All contracts let by the board for any goods,
18 supplies, or materials to be purchased exceeding \$100,000.00 shall require a notice of
19 bids be advertised twice in the legal organ of the county allowing a reasonable amount
20 of time for responsive bids to be submitted and shall be subject to this Code section. The
21 bid of the lowest responsive and responsible bidder for contracts for purchase of any
22 goods, supplies, or materials shall be accepted unless all bids are rejected because the
23 bids are too high or the board determines it is in the best interests of the district to reject
24 all bids. The board may require such bidders to furnish bond with a responsible surety
25 to be approved by the board. Contracts for the operation, maintenance, and management
26 of district projects shall contain the following provisions:

27 (A) The contract shall terminate absolutely and without further obligation on the part
28 of the district at the close of the calendar year in which it was executed and at the close
29 of each succeeding calendar year for which it may be renewed as provided in this Code
30 section; and

31 (B) The contract may provide for automatic renewal unless positive action is taken by
32 the district to terminate such contract, and the nature of such action shall be determined
33 by the district and specified in the contract;

34 (3) To borrow money and issue bonds, bond anticipation notes, certificates, warrants,
35 notes, or other evidence of indebtedness to fund any project or portion thereof or cost
36 incident thereto as provided in this chapter; to levy such tax and special assessments as

1 may be authorized in conformity with the requirements of Code Sections 48-5-32 and
 2 48-5-32.1; to charge, collect, and enforce fees and other user charges; to apply for and use
 3 grants or loans of money or other property from the United States, this state, a unit of
 4 local government, or any person for any district purposes and enter into agreements
 5 required in connection therewith; and to hold, use, and dispose of such moneys or
 6 property for any district purposes in accordance with the terms of the gift, grant, loan, or
 7 agreement relating thereto. The district may incur debt without regard to the
 8 requirements of Article IX, Section V of the Constitution or any other provision of law
 9 prohibiting or restricting the borrowing of money or the creation of debt by political
 10 subdivisions of this state, which debt may be backed by the full faith, credit, and taxing
 11 power of the district but shall not be an obligation of this state, the local government or
 12 governments that approved the district, or any other unit of government of this state;

13 (4) To adopt resolutions and orders prescribing the powers, duties, and functions of the
 14 officers of the district; the conduct of the business of the district; and the maintenance of
 15 records of the district. The board may also adopt resolutions with respect to any of the
 16 projects of the district and define the area to be included therein. The board may also
 17 adopt resolutions which may be necessary for the conduct of district business;

18 (5) To maintain an office at such place or places as it may designate within the district;

19 (6) To hold, control, and acquire by donation or purchase, or dispose of, any public
 20 easements, dedications to public use, platted reservations for public purposes, or any
 21 other easements, dedications, or reservations for those purposes authorized by this
 22 chapter and to make use of such easements, dedications, or reservations for any of the
 23 purposes authorized by this chapter;

24 (7) To lease as lessor or lessee to or from any person, firm, corporation, association, or
 25 body, public or private, any projects of the type that the district is authorized to undertake
 26 and facilities or property of any nature for the use of the district to carry out any of the
 27 purposes authorized by this chapter;

28 (8) To raise, by user charges or fees authorized by resolution of the board, amounts of
 29 money which are necessary for the conduct of district activities and upkeep of district
 30 facilities and to enforce their receipt and collection in the manner prescribed by resolution
 31 not inconsistent with law.

32 (A) The board is authorized to prescribe, fix, establish, and collect rates, fees, rentals,
 33 or other charges, and to revise the same from time to time, for the projects furnished by
 34 the district, including, but not limited to, recreational facilities, water management and
 35 control facilities, and water and sewer systems; to recover the costs of making
 36 connection with any district facility or system; and to provide for reasonable penalties

1 against any user or property for any such rates, fees, rentals, or other charges that are
2 delinquent.

3 (B) A copy of the schedule or schedules of such rates, fees, rentals, or charges shall be
4 kept on file in the district office. The rates, fees, rentals, or charges so fixed for any
5 class of users or property served shall be extended to cover any additional users or
6 properties thereafter served which shall fall in the same class, without the necessity of
7 any notice or hearing. Such rates may only be raised by the board.

8 (C) Rates, fees, rentals, and charges shall be just and equitable and uniform for users
9 of the same class and when appropriate may be based or computed either upon the
10 amount of service furnished, upon the number of average number of persons residing
11 or working in or otherwise occupying the premises served, upon any other factor
12 affecting the use of the facilities furnished, or upon any combination of the foregoing
13 factors as may be determined by the board on an equitable basis.

14 (D) The rates, fees, rentals, or other charges prescribed shall be such as will produce
15 revenues, together with any other assessments, taxes, revenues, or funds available or
16 pledged for such purpose, at least sufficient to provide for following:

17 (i) All expenses of, including reserves for, the operation and maintenance of projects;

18 (ii) Payment when due of all bonds and interest thereon and costs related thereto for
19 the payment of which revenues are, or shall have been, pledged or encumbered,
20 including reserves for such purpose; and

21 (iii) Any other funds which may be required under the resolution or resolutions
22 authorizing the issuance of bonds pursuant to this chapter.

23 (E) The board shall have the power to enter into contracts for the use of the projects of
24 the district and with respect to the services and facilities furnished or to be furnished
25 by the district;

26 (9) To cooperate with, or contract with, governmental agencies as may be necessary,
27 convenient, incidental, or proper in connection with any of the powers, duties, or
28 purposes authorized by this chapter;

29 (10) To assess and impose upon lands in the district ad valorem taxes and assessments
30 as provided by this chapter;

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

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

36 (B) Water supply, sewer, and waste-water management, reclamation, and reuse or any
37 combination thereof, and to construct and operate connecting intercepting or outlet

1 sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and
2 under any street, alley, highway, or other public place or ways; and to dispose of any
3 effluent, residue, or other byproducts of such system or sewer system. Such sewer or
4 sewer system shall have the same rights, duties, and obligations as publicly owned
5 treatment works that discharge treated waste water; provided, however, that such water
6 supply, sewer, and waste-water management, reclamation, and reuse systems shall be
7 built to the specifications approved by this state for the local government in which such
8 projects are located;

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

13 (D)(i) District roads equal to or exceeding the specifications of the county in which
14 such district roads are located;

15 (ii) Street lights; and

16 (iii) Buses, trolleys, transit shelters, ridesharing facilities and services, parking
17 improvements, and related signage;

18 (E) Investigation and remediation costs associated with the cleanup of actual or
19 perceived environmental contamination within the district under the supervision or
20 direction of a competent governmental authority, unless the expenditure of investigation
21 and remediation costs benefit any person who is a landowner within the district and
22 who caused or contributed to the contamination;

23 (F) Conservation areas, mitigation areas, and wildlife habitat, including the
24 maintenance of any plant or animal species, and any related interest in real or personal
25 property, including green spaces and common areas;

26 (G) Security, including, but not limited to, guardhouses, fences and gates, electronic
27 intrusion detection systems, and patrol cars, when authorized by proper governmental
28 agencies, except that the district may not exercise any police power, but may contract
29 with the appropriate local government agencies for an increased level of such services
30 within the district boundaries;

31 (H) Indoor and outdoor recreational, cultural, and educational uses; and

32 (I) Any other project within or outside the boundaries of a district consistent with the
33 local government comprehensive plan of the appropriate local government;

34 (12) To finance, plan, establish, acquire, construct or reconstruct, enlarge or extend,
35 equip, and maintain additional facilities for:

- 1 (A) Fire prevention and control, including fire stations, water mains and plugs, fire
 2 trucks, and other vehicles and equipment when authorized by the appropriate local
 3 government;
- 4 (B) School buildings and related structures, which may be leased, sold, or donated for
 5 use in the public educational system when authorized by the local school board;
- 6 (C) Control and elimination of pests of public health importance; and
- 7 (D) Waste collection and disposal;
- 8 (13) To adopt and enforce appropriate resolutions in connection with the provision of
 9 one or more services through its projects;
- 10 (14)(A) To impose and enforce certain deed restrictions pertaining to the use and
 11 operation of real property within the district. The district may impose all or certain
 12 portions of the deed restrictions that:
- 13 (i) Relate to limitations or prohibitions that apply only to external structures and are
 14 deemed by the district to be generally beneficial for the district's landowners and for
 15 which enforcement by the district is appropriate, as determined by the district's board;
 16 or
- 17 (ii) Are consistent with the requirements of a development order or regulatory agency
 18 permit.
- 19 (B) The board may vote to adopt deed restrictions only when all of the following
 20 conditions exist:
- 21 (i) The district's geographic area contains no homeowners' associations;
- 22 (ii) The majority of the board has been elected by electors pursuant to this chapter;
- 23 and
- 24 (iii) The declarant or other party establishing such deed restrictions has provided the
 25 board with a written agreement that such deed restrictions may be adopted by the
 26 district. A memorandum of the agreement shall be recorded in the public records.
- 27 (C) Within 60 days after such deed restrictions take effect, the district shall cause to
 28 be recorded in the property records in the county in which the district is located the
 29 deed restrictions, stating generally what deed restrictions were adopted and where a
 30 copy of the deed restrictions may be obtained. Districts may impose fines for violations
 31 of such deed restrictions and enforce such deed restrictions and fines through injunctive
 32 relief; and
- 33 (15) To exercise all of the powers necessary, convenient, incidental, or proper in
 34 connection with any of the powers, duties, or purposes authorized by this chapter,
 35 including any power granted by the laws of this state to public or private corporations
 36 which is not in conflict with the purposes of the district.

1 36-93-9.

2 A district formed under this chapter shall not have the power of eminent domain and
3 nothing in this chapter shall be construed to give a district such power.

4 36-93-10.

5 A district may adopt and enforce reasonable rules and regulations to:

6 (1) Secure and maintain safe, sanitary, and adequate plumbing installations, connections,
7 and appurtenances as subsidiary parts of its sanitary sewer system;

8 (2) Preserve the sanitary condition of all water controlled by the district;

9 (3) Prevent waste or the unauthorized use of water controlled by the district;

10 (4) Provide and regulate a safe and adequate freshwater distribution system; and

11 (5) Regulate activities on any land or any easement owned or controlled by the district;
12 provided, however, the appropriate local government shall retain all zoning powers and
13 land use control rights under this Code section.

14 36-93-11.

15 (a) In addition to the other powers provided for in this chapter, and not in limitation
16 thereof, the district shall have the power to issue from time to time notes in anticipation of
17 bonds and to renew from time to time any such notes by the issuance of new notes, whether
18 the notes to be renewed have or have not matured. The district may issue such bond
19 anticipation notes only to provide funds which otherwise would be provided by the
20 issuance of the bonds. Bond anticipation notes may be authorized, sold, executed, and
21 delivered in the same manner as bonds. As with its bonds, the district may sell notes at
22 public or private sale. Any resolution or resolutions authorizing notes of the district or any
23 issue thereof may contain any provisions which the district is authorized to include in any
24 resolution or resolutions authorizing bonds of the district or any issue thereof and which
25 the district is authorized to include in any bonds. Bond anticipation notes shall not be
26 issued in an amount exceeding the par value of the bonds in anticipation of which they are
27 to be issued.

28 (b) The district may, at any time, obtain loans for other short-term borrowing, in such
29 amounts and on such terms and conditions as the board may approve for the purpose of
30 paying any of the expenses of the district or any cost incurred or that may be incurred in
31 connection with any of the projects of the district and related operation and maintenance
32 costs of the projects of the district. Such loans shall bear interest as the board may
33 determine and may be payable from and secured by a pledge of such funds, revenues,
34 taxes, and assessments as the board may determine.

1 36-93-12.

2 (a) Bonds, notes, or other obligations issued by the district shall be paid from revenues and
3 other property pledged to pay such bonds, notes, or other obligations. In the event the
4 district defaults on its obligations, landowners within the district shall only be responsible
5 for such obligations that are associated with their property and not the obligations of the
6 district as a whole or the obligations of any other landowner. Landowners of the district
7 shall have the right to satisfy or make arrangements to satisfy the proportionate share of
8 obligations related to the district and any related reasonable interest as determined by the
9 calculation provided in subsection (i) of Code Section 36-93-15 on their property.

10 (b) All bonds, notes, and other obligations of the district shall be authorized by resolution
11 of its board. The board may incur debt for initial costs upon creation of the district by the
12 appropriate local government and adoption of a resolution by the board. Debt for
13 additional projects may be incurred after the board has complied with the requirements of
14 Code Section 36-93-13.

15 (c) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such
16 time or times not more than 40 years from their respective dates, shall bear interest at such
17 rate or rates which may be fixed or may fluctuate or otherwise change from time to time,
18 may be subject to interest rate hedge arrangements, shall be subject to redemption on such
19 terms, and shall contain such other terms, provisions, covenants, assignments, and
20 conditions as the resolution authorizing the issuance of such bonds, notes, or other
21 obligations may permit or provide. The resolution authorizing the issuance of the bonds
22 may delegate to such officers charged with the responsibility of issuing such bonds the
23 authority to set the final terms, conditions, and details thereof, including the interest rate
24 or rates and maturity, within reasonable parameters established and set forth in such
25 resolution.

26 (d) The board shall have power from time to time and whenever it deems it expedient to
27 refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded
28 have matured. The board may issue bonds partly to refund bonds then outstanding and
29 partly for any other purpose permitted under this chapter. The refunding bonds may be
30 exchanged for the bonds to be refunded, with such cash adjustments as may be agreed
31 upon, or may be sold and the proceeds applied to the purchase or redemption of the bonds
32 to be refunded.

33 (e) There shall be no limitation upon the interest rates of any maximum interest rate or
34 rates on any bonds, notes, or other obligations of the district; and the usury laws of this
35 state shall not apply to bonds, notes, or other obligations of the district.

36 (f) Bonds issued by the district may be in such form, either coupon or fully registered, or
37 both coupon and fully registered, and may be subject to such exchangeability and

1 transferability provisions as the bond resolution authorizing the issuance of such bonds or
2 any indenture or trust agreement may provide.

3 (g) Bonds shall bear a certificate of validation. In the case where property within the
4 district is within multiple jurisdictions, validation shall occur in the jurisdiction within
5 which the majority of the property lies. The signature of the clerk of the superior court
6 may be made on the certificate of validation of such bonds by facsimile or by manual
7 execution, stating the date on which such bonds were validated; and such entry shall be
8 original evidence in any court of this state.

9 (h) In lieu of specifying the rate or rates of interest which such bonds are to bear and the
10 principal amount and maturities of such bonds, the notice to the district attorney, the notice
11 to the public of the time, place, and date of the validation hearing, and the petition and
12 complaint for validation may state that the bonds when issued will bear interest at a rate not
13 exceeding a maximum per annum rate of interest which may be fixed or may fluctuate or
14 otherwise change from time to time, and that the principal amount will not exceed an
15 amount specified in and the final maturity date will not be later than a date specified in
16 such notices, petition, and complaint or may state that, in the event the bonds are to bear
17 different rates of interest for different maturity dates, none of such rates will exceed the
18 maximum rate so specified which may be fixed or may fluctuate or otherwise change from
19 time to time; provided, however, that nothing in this section shall be construed as
20 prohibiting or restricting the right of the board to sell such bonds at a discount, even if in
21 doing so the effective interest cost resulting therefrom would exceed the maximum per
22 annum interest rate specified in such notices and in the petition and complaint.

23 (i) The terms 'cost' and 'project,' when used in the phrases 'cost of the project' and 'cost of
24 any project' in bond resolutions of the board, in bonds, notes, or other obligations of the
25 district, or in notices of proceedings to validate such bonds, notes, or other obligations of
26 the district, shall have the same meanings as provided in paragraphs (6) and (17) of Code
27 Section 36-93-2.

28 (j) Pursuant to this chapter, all bonds, notes, and other obligations issued under this chapter
29 and interest paid and all fees, charges, and other revenues derived by the district from the
30 projects provided by this chapter are exempt from all taxes of the state or of any political
31 subdivision, agency, or instrumentality thereof.

32 (k) All bonds issued under this chapter shall be validated pursuant to the procedures set
33 forth in this title.

1 36-93-13.

2 (a)(1) When any district desires to undertake any additional project, an election shall be
3 called and held in accordance with this Code section to approve such project and any debt
4 to be incurred.

5 (2) Notwithstanding paragraph (1) of this subsection, the district shall be authorized to
6 make reasonable expenditures related to studying the feasibility, costs, and maintenance
7 of such additional projects and the hearing and election required by this Code section.

8 (b) A public hearing on the proposed additional project shall be conducted by the board.
9 The board shall present information related to the proposed additional project, including
10 but not limited to the estimated costs to construct, operate, and maintain the additional
11 project; planned financing mechanisms to be used by the district to pay for the additional
12 project; and the estimated cost per parcel for the additional project. The hearing shall be
13 open to the public and provide opportunity for oral and written comments on the additional
14 project by the landowners of the district and the appropriate local government. The hearing
15 shall be held at an accessible location in the county in which the district is located. The
16 board shall cause a notice of the hearing to be published in the legal organ of each county
17 or municipality having jurisdiction over the district at least once a week for the four
18 successive weeks immediately prior to the hearing. The notice shall give the time and
19 place for the hearing and a description of the additional project, including but not limited
20 to the estimated costs to construct, operate, and maintain the additional project; planned
21 financing mechanisms to be used by the district to pay for the additional project; and the
22 maximum cost per parcel for the additional project.

23 (c) During the public hearing required in subsection (b) of this Code section, the board
24 shall establish a date to hold an election on the issue of the additional project by the
25 qualified electors of the district, such date to be no more than six weeks following the
26 public hearing. The board shall give notice for not less than 21 days immediately
27 preceding the day of the election in the legal organ of each county or municipality having
28 jurisdiction over the district, notifying the qualified electors of the district that on the day
29 named an election will be held to determine the question of whether to undertake the
30 additional project. The notice shall describe the additional project, including but not limited
31 to the estimated costs to construct, operate, and maintain the additional project; the planned
32 financing mechanisms to be used by the district to pay for the additional project; and the
33 maximum cost per parcel for the additional project.

34 (d) The election provided for in this Code section shall be conducted by the board.
35 Qualified electors of the district may vote in the same manner as elections for board
36 members pursuant to Code Section 36-93-5. If a majority of those qualified electors of the
37 district voting at the election approve the additional project, then the board shall be

1 authorized to construct the additional project and to incur debt to finance the additional
2 project. If the additional project has been approved, the board shall amend the public
3 disclosures required in Code Sections 36-93-25 and 36-93-26 to reflect the new maximum
4 amount of fees and assessments related to initial costs and additional projects using the
5 same calculation for determining initial costs per parcel.

6 (e) No violation of this Code section shall affect the validity of any bonds issued under this
7 Code section.

8 36-93-14.

9 Any issue of bonds may be secured by a trust agreement by and between the district and
10 a corporate trustee or trustees, which may be any trust company or bank having the powers
11 of a trust company within or outside the state. The resolution authorizing the issuance of
12 the bonds or trust agreement may provide for the pledge of the revenues to be received
13 from any projects of the district and may contain such provisions for protecting and
14 enforcing the rights and remedies of the bondholders as the board may approve, including,
15 without limitation, covenants setting forth the duties of the district in relation to: the
16 acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and
17 insurance of any projects; the fixing and revising of the rates, fees, and charges; and the
18 custody, safeguarding, and application of all moneys and for the employment of consulting
19 engineers in connection with such acquisition, construction, reconstruction, improvement,
20 maintenance, repair, or operation. It shall be lawful for any bank or trust company within
21 or outside the state which may act as a depository of the proceeds of bonds or of revenues
22 to furnish such indemnifying bonds or to pledge such securities as may be required by the
23 district. The resolution authorizing the issuance of the bonds or trust agreement may set
24 forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict
25 the individual right of action by bondholders. The board may provide for the payment of
26 proceeds of the sale of the bonds and the revenues of any project to such officer, board, or
27 depository as it may designate for the custody thereof and may provide for the method of
28 disbursement thereof with such safeguards and restrictions as it may determine. All
29 expenses incurred in carrying out the provisions of such resolution or trust agreement may
30 be treated as part of the cost of the project to which such trust agreement pertains.

31 36-93-15.

32 (a) The board shall have the power to levy and assess an ad valorem tax on all the taxable
33 property in the district to construct and maintain projects; to pay the principal of, and
34 interest on, any bonds of the district; and to provide for any sinking or other funds

1 established in connection with any such bonds. The ad valorem tax provided for by this
2 chapter shall be in addition to all other ad valorem taxes provided for by law.

3 (b) The board may levy a maintenance special assessment to construct, reconstruct,
4 acquire, maintain, operate, or preserve the facilities and projects of the district; to pay the
5 principal of, and interest on, any bonds of the district; and to provide for any sinking or
6 other funds established in connection with any such bonds. Maintenance special
7 assessments shall not include costs associated with fee-for-services arrangements, such as
8 payments for utility or water service. This assessment may be evidenced to and certified
9 to the appropriate tax authority of the local government by the board not later than June 15
10 of each year and shall be entered by the appropriate tax authority of the local government
11 on the county tax rolls and shall be collected and enforced, and the proceeds therefrom
12 shall be paid to the district, as provided for in this Code section. Maintenance special
13 assessments shall be a lien on the property against which assessed until paid and shall be
14 enforceable in like manner as county taxes. The amount of the maintenance special
15 assessment for the exercise of the district's powers under this chapter shall be determined
16 and assessed by the board upon such lands, which may be all of the lands within the district
17 benefited by the maintenance thereof, apportioned between the benefited lands in
18 proportion to the benefits received by each tract of land.

19 (c) Any tax, fee, or assessment levied pursuant to this Code section for maintenance
20 special assessments shall not exceed five mills on each dollar of the assessed value of all
21 such real property. Except for specially designated property as provided for in Code
22 Section 36-93-26, the taxes, fees, and assessments levied by the board upon the properties
23 shall be equitably apportioned among the properties according to the need for infrastructure
24 created by the degree of density of development within the district and not for the purpose
25 of providing infrastructure that would primarily benefit the county or municipality as a
26 whole. Any tax, fee, or assessment so levied shall be collected by the county in which the
27 property is located using the methods and procedures as designated by the county
28 commission. Delinquent taxes, fees, and assessments shall bear the same interest and
29 penalties as ad valorem taxes of the county in which the property is located and may be
30 enforced and collected in the same manner. The county in which the property is located
31 may retain a fee to reimburse the actual increased costs, if any, of preparing and mailing
32 notices to collect such taxes, fees, and assessments for the board. The remaining proceeds
33 shall be transmitted by the county to the board and shall be expended by the board only for
34 the purposes authorized in this chapter.

35 (d) The board shall levy the taxes and assessments provided for in this Code section
36 between January 1 and June 1 of each calendar year and shall notify in writing the
37 appropriate tax authority of the county in which the property is located by June 15 each

1 year so the county may include the levy on the county's regular ad valorem tax bills. The
2 board shall base the taxes and assessments on the tax digest approved by the appropriate
3 local government.

4 (e) If a parcel of real property is removed from the district or otherwise becomes
5 nontaxable, it shall continue to bear its tax millage then extant upon such event for bonded
6 indebtedness of the district then outstanding until any bonded indebtedness then
7 outstanding is paid or refunded.

8 (f) Each property for which there is paid taxes, fees, or assessments levied by the board
9 for any project shall receive a credit equal to the present value of all such taxes, fees, and
10 assessments toward any impact fee as may be levied by the county against said property
11 for system improvements which are in the same category as said public facility in
12 accordance with Chapter 71 of this title, the 'Georgia Development Impact Fee Act.'

13 (g) All bonds, notes, and other obligations issued according to this chapter and interest
14 paid and all fees, charges, and other revenues derived by the district from the projects
15 provided by this chapter are exempt from all taxes of the state or of any political
16 subdivision, agency, or instrumentality thereof.

17 (h) With the exception of maintenance special assessments, district assessments may be
18 made payable in no more than 40 yearly installments.

19 (i) Before selling any property to the general public, the board shall determine the
20 projected initial costs to be repaid by landowners through taxes and assessments. These
21 initial costs shall be apportioned among the parcels to be sold to the general public, and the
22 amount of such apportionment shall be disclosed as required by this chapter.

23 36-93-16.

24 All taxes and assessments of the district provided for in this chapter, together with all
25 penalties for default in the payment of the same and all costs in collecting the same,
26 including a reasonable attorney's fee fixed by the court and taxed as a cost in the action
27 brought to enforce payment, shall, from January 1 for each year the property is liable to
28 assessment and until paid, constitute a lien of equal dignity, notwithstanding the provisions
29 of Code Section 48-2-56, with the liens for municipal taxes and other taxes of equal dignity
30 with municipal taxes upon all the lands against which such taxes shall be levied. A sale of
31 any of the real property within the district for state, county, or other taxes shall not operate
32 to relieve or release the property so sold from the lien for subsequent district taxes or
33 installments of district taxes, which lien may be enforced against such property as though
34 no such sale thereof had been made. Nothing in this Code section shall affect the rights of
35 lien holders for municipal taxes.

1 36-93-17.

2 (a) The district has the right to:

3 (1) Pay any delinquent state, county, district, municipal, or other tax or assessment upon
4 lands located wholly or partially within the boundaries of the district; and

5 (2) Redeem or purchase any tax sales certificates issued or sold on account of any state,
6 county, district, municipal, or other taxes or assessments upon lands located wholly or
7 partially within the boundaries of the district.

8 (b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district,
9 together with all penalties for the default in payment of the same and all costs in collecting
10 the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of
11 equal dignity, notwithstanding the provisions of Code Section 48-2-56, with the liens of
12 municipal taxes and other taxes of equal dignity with municipal taxes upon all the real
13 property against which the taxes were levied.

14 (c) In any sale of land, the district may certify to the clerk of the superior court of the
15 county holding such sale the amount of taxes due to the district upon the lands sought to
16 be sold; and the district shall share in the disbursement of the sales proceeds in accordance
17 with the provisions of this chapter and other laws of the state.

18 36-93-18.

19 To the full extent permitted by law, the district may require all lands, buildings, premises,
20 persons, firms, and corporations within the district to use the water management and
21 control facilities and water and sewer facilities of the district or any other facility or service
22 of the district when the district relies on the collection of any rates, fees, or charges to
23 provide said facility or service or to pay principal and interest on debt obligations secured
24 by a pledge of revenues generated by the collection of such rates, fees, and charges.

25 36-93-19.

26 In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid when
27 due and are in default for 60 days or more, the unpaid balance thereof and all interest
28 accrued thereon, together with reasonable attorney's fees and costs, may be recovered by
29 the district in a civil action.

30 36-93-20.

31 In the event the fees, rentals, or other charges for water and sewer services, or either of
32 them, are not paid when due, the board shall have the power, under such reasonable rules
33 and regulations as the board may adopt, to discontinue and shut off both water and sewer
34 services until such fees, rentals, or other charges, including interest, penalties, and charges

1 for the shutting off and discontinuance and the restoration of such water and sewer services
2 or both, are fully paid; and, for such purposes, the board may enter on any lands, waters,
3 or premises of any person, firm, corporation, or body, public or private, within the district
4 limits. Delinquent fees, rentals, or other charges, together with interest, penalties, and
5 charges for the shutting off and discontinuance and the restoration of services and facilities
6 and reasonable attorney's fees and other expenses, may be recovered by the district, which
7 may also enforce payment of delinquent fees, rentals, or other charges by any other lawful
8 method of enforcement.

9 36-93-21.

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

23 36-93-22.

24 Any suit or action brought or maintained against the district for damages arising out of tort,
25 including, without limitation, any claim arising from an act causing an injury or loss of
26 property, personal injury, or death, shall be subject to the limitations provided in Code
27 Section 50-21-29.

28 36-93-23.

29 Property, real or personal, that belongs to or is owned by the district, or in which the
30 district has an interest, shall be exempt from levy and sale by virtue of an execution; and
31 no execution or other judicial process shall issue against such property, nor shall any
32 judgment against the district be a charge or lien on its property or revenues; however,
33 nothing contained herein shall apply to or limit the rights of bondholders to pursue any

1 remedy for the enforcement of any lien or pledge given by the district in connection with
2 any of the bonds or obligations of the district.

3 36-93-24.

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

6 (1) The petition to contract or expand the boundaries of a district shall contain the same
7 information required for a petition for creation pursuant to Code Section 36-93-3. In
8 addition, if the petitioner seeks to expand the district, the petition shall describe the
9 proposed timetable for construction of any district projects in the area, the estimated cost
10 of constructing the proposed projects, and the designation of the future general
11 distribution, location, and extent of public and private uses of land proposed for the area
12 by the future land use plan element of the local government comprehensive plan currently
13 in force. If the petitioner seeks to contract the district, the petition shall describe what
14 projects are currently provided by the district to the area being removed, and the
15 designation of the future general distribution, location, and extent of public and private
16 uses of land proposed for the area by the future land element of the adopted local
17 government comprehensive plan; and

18 (2) A public hearing shall be held in the same manner and with the same public notice
19 as required for creation of a new district pursuant to this chapter. The appropriate local
20 government shall consider the record of the public hearing and the factors set forth in
21 Code Section 36-93-3 in making its determination to grant or deny the petition.

22 (b) The district shall remain in existence unless:

23 (1) The district is merged with another district as provided by subsection (c) of this Code
24 section;

25 (2) All of the specific community development systems, facilities, and services that it is
26 authorized to perform have been transferred to the appropriate local government; or

27 (3) The district is dissolved as provided by subsection (e) of this Code section.

28 (c) The district may merge with other districts upon filing a petition, which shall contain
29 the same information required for a petition for creation pursuant to Code Section 36-93-3.
30 The new district formed by a merger involving existing districts shall assume all
31 indebtedness of, and receive title to, all property owned by the preexisting districts. Prior
32 to filing a petition for merger, the districts desiring to merge shall enter into a merger
33 agreement and shall provide for the proper allocation of the indebtedness so assumed and
34 the manner in which the assumed debt shall be retired. The approval of the merger
35 agreement by the board of each district shall constitute consent of the landowners within
36 the district.

1 (d) Upon the request of the board of the district, the appropriate local government within
 2 which the district lies may adopt a resolution or ordinance providing for a plan for the
 3 transfer of a specific district service or infrastructure from a district to the appropriate local
 4 government. The plan must provide for the assumption and guarantee of the district debt
 5 that is related to the service or infrastructure by the appropriate local government.

6 (e)(1) Dissolution of the district may be allowed under the following circumstances:

7 (A) Upon the transfer of all of the community development services of the district to
 8 the appropriate local government, the district shall be dissolved in accordance with a
 9 plan of dissolution adopted by the board and filed with the clerk of the superior court;

10 (B) If, within five years after the effective date of the resolution or ordinance
 11 establishing the district, a landowner has not received a building permit authorizing
 12 construction of a building or structure within the district, then the district shall be
 13 automatically dissolved; or

14 (C) If a district has no outstanding financial obligations and no operating or
 15 maintenance responsibilities, upon the petition of the district, the district may be
 16 dissolved by a resolution or ordinance of the appropriate local government.

17 (2) Prior to any dissolution, debts and other obligations of the district must be fully paid
 18 or payment otherwise provided for.

19 36-93-25.

20 (a) The district shall take affirmative steps to provide for the full disclosure of information
 21 relating to the public financing and maintenance of improvements to real property
 22 undertaken by the district. The required information shall be made available to all existing
 23 residents, and to all prospective residents, of the district. The district shall furnish each
 24 developer of a development within the district with sufficient copies of that information to
 25 provide a copy to each prospective initial purchaser of property in that development; and
 26 any developer of a development within the district, when required by law to provide a
 27 public offering statement, shall include a copy of information relating to the public
 28 financing and maintenance of improvements in the public offering statement.

29 (b) Subsequent to the establishment of a district under this chapter, each contract for the
 30 initial sale of a parcel of real property, each contract for the initial sale of a residential unit,
 31 and each lease agreement for the rental of a residential unit within the district shall include,
 32 immediately prior to the space reserved in the contract for the signature of the purchaser,
 33 the following disclosure statement in boldface and conspicuous type which is larger than
 34 the type in the remaining text of the contract: "THE PROPERTY YOU ARE ABOUT TO
 35 PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE
 36 DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE

1 DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS,
 2 OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. CERTAIN OF
 3 THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT
 4 AND THE COSTS OF ADDITIONAL PROJECTS. ALTHOUGH SUBJECT TO SOME
 5 FLUCTUATION, THESE TAXES AND ASSESSMENTS FOR INITIAL COSTS AND
 6 ADDITIONAL PROJECTS SHALL NOT EXCEED \$_____ PER YEAR.
 7 ADDITIONAL TAXES AND ASSESSMENTS MAY PAY THE OPERATION AND
 8 MAINTENANCE OF DISTRICT PROJECTS, AND SUCH COSTS ARE CAPPED BY
 9 LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY
 10 AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL
 11 OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.'

12 (c) The limit on taxes and assessments for initial costs and additional projects costs shall
 13 be determined as provided for in subsection (i) of Code Section 36-93-15.

14 (d) Within 30 days after the effective date of a resolution or ordinance establishing a
 15 district under this chapter, the district shall cause to be recorded in the property records in
 16 the county in which it is located a 'Notice of Establishment of the _____ Infrastructure
 17 Development District.' The notice shall, at a minimum, include the legal description of the
 18 district and a copy of the disclosure statement specified in subsection (b) of this Code
 19 section.

20 36-93-26.

21 (a) A district that is composed of at least 1,500 acres may define areas or designate certain
 22 property of the district to pay for improvements, facilities, or services that primarily benefit
 23 that designated area or property and do not generally and directly benefit the district as a
 24 whole.

25 (b) The board shall state in its designation the physical and economic reasons, the
 26 particular diverse local needs, or the comparative potential benefits of the defined areas or
 27 designated property in the district that make it necessary or equitable to levy all or part of
 28 the tax on a defined area or designated property of the district.

29 (c)(1) The board shall adopt a proposed plan that defines the particular area to be taxed
 30 by metes and bounds or designates the property to be served, affected, and taxed.

31 (2) The board shall adopt a proposed plan for improvements in the defined area or to
 32 serve the designated property.

33 (3) The board shall adopt a proposed plan of taxation to apply to the defined area or
 34 designated property that may or may not be in addition to other taxes imposed by the
 35 district on the same area or property.

1 (d) After adoption of the plans as provided for in this Code section, the district, under the
 2 limitations of this Code section, may apply separately, differently, equitably, and
 3 specifically its taxing and assessment powers and lien authority to the defined area or
 4 designated property to provide funds to construct, administer, maintain, and operate
 5 improvements and facilities that primarily benefit the defined area or designated property.

6 (e) After adoption of the plans as provided for in this Code section, the district may issue
 7 its bonds to provide the specific projects included in the plans adopted for the defined area
 8 or to serve the designated property, and shall provide the improvements and facilities.

9 (f) The district may issue bonds that pledge only the faith and credit based on the property
 10 values in the defined area and may not pledge the full faith and credit of the district.

11 (g) In lieu of the general notice required under Code Section 36-93-25, a person who sells
 12 or conveys real property located within the defined area or designated property of the
 13 district shall provide the following prescribed notice, which shall be disclosed in the same
 14 manner as notice required under Code Section 36-93-25: 'THE PROPERTY YOU ARE
 15 ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District)
 16 INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District)
 17 INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES
 18 OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.
 19 CERTAIN OF THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF
 20 THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. ALTHOUGH
 21 SUBJECT TO SOME FLUCTUATION, THESE TAXES AND ASSESSMENTS FOR
 22 INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT EXCEED \$_____
 23 PER YEAR. ADDITIONAL TAXES AND ASSESSMENTS PAY THE OPERATION
 24 AND MAINTENANCE COSTS OF DISTRICT PROJECTS, AND SUCH COSTS ARE
 25 CAPPED BY LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO
 26 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS
 27 AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

28 'FURTHERMORE, THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE
 29 IS WITHIN A DESIGNATED AREA OF THE (Name of District) INFRASTRUCTURE
 30 DEVELOPMENT DISTRICT AND YOUR LAND WILL BE SUBJECT TO HIGHER
 31 TAXES THAN OTHER LAND WITHIN THE DISTRICT. YOUR RATE OF TAXES
 32 WILL BE HIGHER BY \$_____ ON EACH \$1,000.00 OF ASSESSED VALUATION
 33 THAN LAND NOT WITHIN THE DESIGNATED AREA.'

34 (h) The limit on taxes and assessments for initial costs and costs for additional projects
 35 shall be determined as provided for in subsection (i) of Code Section 36-93-15.

1 36-93-27.

2 (a) Article 2 of Chapter 70 of this title shall not apply to districts established under this
3 chapter; provided, however, that a local government or local government authority that is
4 the designated provider of a service for the area in which a district is to be located pursuant
5 to an agreement governed by Article 2 of Chapter 70 of this title or Article IX, Section III,
6 Paragraph I of the Constitution shall receive a copy of the petition filed with the
7 appropriate local government within five days of submission by the petitioner to the
8 appropriate local government and shall have the right of first refusal to provide the service
9 to the district. Such right of first refusal shall be exercised within 30 days of receipt of the
10 petition and such decision shall be communicated to the appropriate local government no
11 fewer than ten days before its public hearing on the petition. If the local government or
12 local government authority exercises its right to serve the district, it shall enter a contract
13 with the district, such contract to include the requirement that the local government or local
14 government authority provide its service within the district in conformity with the timetable
15 of construction that the petitioner provided to the appropriate local government under Code
16 Section 36-93-3. A local government's or local government authority's requirement that
17 the district pay the costs of infrastructure necessary to connect the local government's or
18 local government authority's existing infrastructure to district infrastructure as well as any
19 requirements that the infrastructure meet the existing standards of the service provider used
20 within the jurisdiction shall not constitute refusal by the local government or local
21 government authority to provide the service.

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

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

1 36-93-28.

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

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

7 **SECTION 2.**

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

12 "(a) Any person who owns or operates a facility of any type or who desires to erect,
13 modify, alter, or commence operation of a facility of any type which results or will result
14 in the discharge of pollutants from a point source into the waters of the state shall obtain
15 from the director a permit to make such discharge. Any person desiring to erect, modify,
16 alter, or commence operation of a facility which will result in such discharge but which is
17 not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the
18 discharge of same. Any person who is operating a facility which results in such discharge
19 as of July 1, 1974, may continue to make such discharge pending final action by the
20 director on the application for such discharge permit, provided that such application has
21 been filed with the director by September 29, 1974; and provided, further, that such
22 discharge does not present an immediate health hazard to the public. The director, under
23 the conditions he or she prescribes, may require the submission of such plans,
24 specifications, and other information as he or she deems relevant in connection with the
25 issuance of such permits. The director may, after public notice and opportunity for public
26 hearing, issue a permit which authorizes the person to make such discharge, upon condition
27 that such discharge meets or will meet, pursuant to any schedule of compliance included
28 in such permit, all water quality standards, effluent limitations, and all other requirements
29 established pursuant to this article. The director shall give preference to existing permits
30 or modification of existing permits in conformity with existing service delivery strategy
31 agreements required in Chapter 70 of Title 36."

32 **SECTION 3.**

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

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

9 **SECTION 4.**

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

13 "(b) When sufficient evidence is provided by the applicant that the water withdrawn or
 14 used from the ground is not consumptively used, a permit therefor shall be issued by the
 15 division without a hearing and without the conditions provided in subsection (c) of this
 16 Code section. Applications for such permits shall set forth such facts as the division shall
 17 deem necessary to enable it to establish and maintain adequate records of all water uses.
 18 The director shall give preference to existing permits or modification of existing permits
 19 in conformity with existing service delivery strategy agreements required in Chapter 70 of
 20 Title 36."

21 **SECTION 5.**

22 This Act shall become effective on January 1, 2007; provided, however, that this Act shall
 23 only become effective on January 1, 2007, upon the ratification of a resolution at the
 24 November 2006 state-wide general election that amends the Constitution so as to authorize
 25 the General Assembly to provide by general law for the creation and comprehensive
 26 regulation of infrastructure development districts. If such resolution is not so ratified, this
 27 Act shall not become effective and shall stand repealed in its entirety on January 1, 2007.

28 **SECTION 6.**

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