

House Bill 1415 (AS PASSED HOUSE AND SENATE)

By: Representatives Holt of the 112th, Mumford of the 95th, and Lunsford of the 110th

A BILL TO BE ENTITLED
AN ACT

1 To provide for the creation of one or more community improvement districts in Newton
2 County; to provide for a short title; to provide for the purposes of said district or districts; to
3 provide for definitions; to provide for a board to administer said district or districts; to
4 provide for the appointment and election of members of said board or boards; to provide for
5 taxes, fees, and assessments; to provide for establishment of the boundaries of said district
6 or districts; to provide for a tax cap; to specify conditions whereby the continued existence
7 of the district or districts or the continued existence of any one or more of the powers granted
8 to the district or districts may be terminated; to provide procedures for termination of the
9 district or districts; to provide for the alteration of district boundaries and the practices,
10 procedures, and requirements related thereto; to provide for debt of said district or districts;
11 to provide for cooperation with local governments; to provide for powers of said boards; to
12 provide for notes and other obligations of said district or districts; to provide for authorized
13 contents of agreements and instruments of the board generally, use of proceeds of notes or
14 other obligations, and subsequent issues of notes or other obligations; to provide for
15 construction; provide that no notice, proceeding, publication, or referendum shall be
16 required; to provide for dissolution; to provide the procedures connected with all of the
17 foregoing; to repeal conflicting laws; and for other purposes.

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

19 **SECTION 1.**

20 This Act shall be known and may be cited as the "Newton County Community Improvement
21 District Act."

1 (6) "District" means the geographical area designated as such by the resolution of the
2 governing body of Newton County consenting to the creation of the community
3 improvement district or districts or as thereafter modified by any subsequent resolution
4 of the governing body or bodies within which the district is or is to be located. "District"
5 may also mean a body corporate and politic being a community improvement district
6 created and activated pursuant hereto, as the context requires or permits.

7 (7) "Elector" means the owner of real property within the given district which is subject
8 to taxes, fees, and assessments levied by the board as such owner appears on the most
9 recent ad valorem real property tax return records of Newton County. "Elector" may also
10 mean one officer or director of a corporate elector, one trustee of a trust which is an
11 elector, one partner of a partnership elector, or one designated representative of an elector
12 whose designation is made in writing to the tax commissioner of Newton County and the
13 county clerk at least ten days prior to an election. An owner of property that is subject
14 to taxes, fees, or assessments levied by the board shall have one vote for an election based
15 on numerical majority. An owner of multiple parcels has one vote, not one vote per
16 parcel, for an election based on numerical majority. Multiple owners of one parcel have
17 one vote for an election based on numerical majority which must be cast by one of their
18 number who is designated in writing.

19 (8) "Equity electors" means electors who cast votes equal to each \$1,000.00 value of all
20 owned real property within the given district which is then subject to taxes, fees, and
21 assessments levied by the board. Value of real property shall be the assessed value.

22 (9) "Forestry" means the planting and growing of trees for sale in a program which
23 includes reforestation of harvested trees, regular underbrush and undesirable growth
24 clearing, fertilizing, pruning, thinning, cruising, and marking which indicates an active
25 tree farming operation. The term does not include the casual growing of trees on land
26 otherwise idle or held for investment, even though some harvesting of trees may occur
27 thereon.

28 (10) "Hereby," "herein," "hereunder," and "herewith" mean under this Act.

29 (11) "Project" means the acquisition, construction, installation, modification, renovation,
30 or rehabilitation of land, interests in land, buildings, structures, facilities, or other
31 improvements, including operation of facilities or other improvements, located or to be
32 located within or otherwise providing service to the district and the acquisition,
33 installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery,
34 equipment, furniture, or other property of any nature whatsoever used on, in, or in
35 connection with any such land, interest in land, building, structure, facility, or other
36 improvement for the purposes set forth in Section 2 of this Act.

1 (12) "Property owner" or "owner of real property" means any entity or person shown as
 2 a taxpayer for one or more parcels of real estate on the most recent ad valorem tax
 3 records of Newton County within the district as certified by the tax commissioner of
 4 Newton County.

5 (13) "Property used nonresidentially" means property or any portion thereof used for
 6 neighborhood shopping, planned shopping centers, general commercial buildings,
 7 transient lodging facilities, tourist services, office or institutional buildings, office
 8 services, light industry, heavy industry, central business district, parking, or other
 9 commercial or business use or vacant land zoned or approved for any of the
 10 aforementioned uses which do not include residential.

11 (14) "Residential" means a specific structure, work, or improvement undertaken
 12 primarily to provide either single family or multifamily dwelling accommodations for
 13 persons and families of four units or less and for which an application for a homestead
 14 exemption has been filed and accepted.

15 (15) "Taxpayer" means an entity or person paying ad valorem taxes on real property,
 16 whether on one or more parcels of property within the district. Multiple owners of one
 17 parcel shall constitute one taxpayer and shall designate in writing one of their number to
 18 represent the whole.

19 (16) "Value" or "assessed value" of property means the values established in the most
 20 recent ad valorem tax reassessment of such properties certified by the chairperson of the
 21 Newton County Board of Tax Assessors.

22 **SECTION 4.**

23 **Creation.**

24 Pursuant to Article IX, Section VII of the Constitution, there is created one or more
 25 community improvement districts to be located in unincorporated Newton County wholly
 26 within the incorporated area thereof, which shall be activated upon compliance with the
 27 conditions set forth in this section. Each district, if more
 28 than one are implemented, shall be governed as directed by this Act. The conditions for such
 29 activation shall be:

30 (1) The adoption of a resolution consenting to the creation of the community
 31 improvement district or districts by the county governing authority and imposing such
 32 conditions on the projects and activities which may be undertaken as will ensure their
 33 compatibility with adopted city policies and planning for the area; and

34 (2) The written consent to the creation of the community improvement district by:

1 (A) A majority of the owners of real property within the given district which will be
2 subject to taxes, fees, and assessments levied by the board of the given district; and

3 (B) The owners of real property within the given district which constitutes at least 75
4 percent by value of all real property within the district which will be subject to taxes,
5 fees, and assessments levied by the board. For this purpose, value shall be determined
6 by the most recent approved county ad valorem tax digest.

7 The written consent provided for in this section shall be submitted to the tax commissioner
8 of Newton County, who shall certify whether paragraphs (1) and (2) of this section have been
9 satisfied with respect to such proposed district. The district or districts or respective board
10 or boards created under this Act shall not transact any business or exercise any powers under
11 this Act until the foregoing conditions are met. A copy of such resolutions shall be filed with
12 the Secretary of State and with the clerk of Newton County, who shall each maintain a record
13 of the district activated under this Act. Nothing contained herein shall limit the ability of the
14 county governing authority to implement more than one community improvement district so
15 long as the requirements hereof and of the Constitution are satisfied. The provisions of this
16 Act shall be construed so as to provide for the independent application and exercise of all
17 powers for each district contained herein including the ability to levy taxes as outlined herein
18 as separately and independently authorizing and empowering such separate community
19 improvement districts created hereby. Nothing contained herein shall require the county
20 governing authority to create more than one community improvement district or to require
21 the creation of a new district if the district boundaries of an existing district are changed,
22 added to, supplemented, or modified.

23 **SECTION 5.**

24 Administration, appointment, and election of board members.

25 Each district created pursuant herein shall be administered either by the governing authority
26 or by a board as prescribed under this Act. In the event that a district is to be governed by
27 such a board, the board shall be composed of a minimum of seven board members to be
28 appointed and elected as follows:

29 (1) Two board members shall be appointed by the chairperson of the county governing
30 authority and confirmed by a majority thereof, one of whom shall be a member of the
31 county commission, to serve in Posts 6 and 7. Three board members shall be elected by
32 the vote of electors, and two members shall be elected by the vote of equity electors. The
33 members representing the electors and equity electors shall be elected to serve in Posts
34 1 through 5, respectively. Each elected board member must receive a majority of the
35 votes cast for the post for which he or she is a candidate. Votes for Posts 1, 2, and 3 shall

1 be cast by electors, and votes for Posts 4 and 5 shall be cast by the equity electors. The
2 initial term of office for the members representing Posts 1 and 3 shall be one year. The
3 initial term of office for the members representing Posts 2 and 5 shall be two years, and
4 the initial term of office of the members representing Post 3 shall be three years.
5 Thereafter, all terms of office shall be for four years, except the appointed board members
6 who shall serve at the pleasure of the appointing body. Elected board members shall be
7 subject to recall in the same manner as elected.

8 (2) The initial board members to be elected as provided in paragraph (1) of this section
9 shall be elected in a caucus of electors which shall be held within 120 days after the
10 adoption of the resolution by Newton County consenting to the creation of the district,
11 and the obtaining of the written consents herein provided at such time and place within
12 the district as Newton County shall designate after notice thereof shall have been given
13 to said electors by publishing same in the legal organ of Newton County as hereinafter
14 provided. Thereafter, there shall be conducted annually, not later than 120 days
15 following the last day for filing ad valorem real property tax returns in Newton County,
16 a caucus of said electors at such time and place within the district as the board shall
17 designate in such notice for the purpose of electing board members to those board
18 member positions whose terms expire or are vacant. If a vacancy occurs in an elected
19 position on the board, the board shall, within 60 days of such vacancy, call a special
20 election to fill the same to be held within 60 days of the call unless such vacancy occurs
21 within 180 days of the next regularly scheduled election, in which case a special election
22 may, but need not, be called. For any special election to fill a vacancy, notice thereof
23 shall be given to the appropriate electors by publishing notice thereof in the legal organ
24 of Newton County at least once each week for four weeks prior to such special election.

25 (3) Board members shall receive no compensation for their services, but shall be
26 reimbursed for actual expenses reasonably incurred in the performance of their duties.
27 They shall elect one of their number as chairperson and another as vice chairperson.
28 They shall also elect a secretary and a treasurer, or a secretary/treasurer, either of whom
29 may, but need not, be a member of the board or an elector.

30 (4) If the boundaries of a district are subsequently changed after creation of the district
31 to include land within a municipality which was not a party to the creation of the district,
32 or if a municipality's boundaries are changed to include land within an existing district,
33 the governing authority of the municipality shall acquire the right to appoint a member
34 to the board of the district upon entering into the cooperation agreement provided for in
35 Section 9 of this Act. If, by municipal annexation or by deannexation of land from a
36 district, the district no longer includes land within the unincorporated area of Newton

1 County, then the board member of the district appointed by such governing authority in
2 which the district is no longer located shall cease to be a board member.

3 (5) Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," shall not apply
4 to the election of district board members. Should a vacancy in office of a district board
5 member occur, and the regular caucus of electors is more than six months in the future,
6 a special election shall be called to fill such vacancy, unless it is filled by appointment
7 as hereinabove required.

8 (6) The district board may adopt such bylaws not inconsistent herewith to provide for
9 any matter concerning such elections.

10 **SECTION 6.**

11 Taxes, fees, and assessments.

12 (a) The board may levy taxes, fees, and assessments within the district only on real property
13 used nonresidentially, specifically excluding all property exempt from ad valorem taxation
14 under the Constitution or laws of the State of Georgia; all property used for residential,
15 agricultural, or forestry purposes; and all tangible personal property and intangible property.
16 Any tax, fee, or assessment so levied shall not exceed 2.5 percent of the aggregate assessed
17 value of all such real property, subject to such limitations as the county governing authority
18 may implement with the adoption of the resolution creating said district. The taxes, fees, and
19 assessments levied by the board shall be equitably apportioned among the properties subject
20 to such taxes, fees, and assessments according to the need for governmental services and
21 facilities created by the degree of density of development of each such property. The
22 proceeds of taxes, fees, and assessments levied by the board shall be used only for the
23 purpose of providing those governmental services and facilities set forth in Section 2 of this
24 Act which are specially required by the degree of density of development within the district
25 and not for the purpose of providing those governmental services and facilities provided to
26 the county as a whole. Any tax, fee, or assessment so levied shall be collected by Newton
27 County in the same manner as taxes, fees, and assessments are levied by Newton County.
28 Delinquent taxes shall bear the same interest and penalties as Newton County ad valorem
29 taxes and may be enforced and collected in the same manner. The proceeds of taxes, fees,
30 and assessments so levied, less a fee to cover the costs of collection of 0.25 percent thereof,
31 but not more than \$10,000.00 in any one calendar year, shall be transmitted as soon as they
32 are acquired by Newton County to the board, and shall be expended by the board only for the
33 purposes authorized hereby.

34 (b) The board shall levy the taxes provided for in subsection (a) of this section subsequent
35 to the report of the assessed taxable values for the current calendar year and notify in writing

1 the collecting governing bodies so they may include the levy on their regular ad valorem tax
2 bills, if possible.

3 (c) There shall be a segregation of all funds from the levy of taxes, fees, and assessments as
4 described hereunder for the district, and neither Newton County nor the tax commissioner
5 of Newton County shall expend for any purpose not authorized by the board of the district
6 any such taxes, fees, or charges assessed and collected hereunder except such costs as may
7 be attributed to the billing and collection of such fees, levies, and assessments.

8 (d) If, but for this provision, a parcel of real property is removed from a district or otherwise
9 would become nontaxable, it shall continue to bear the tax millage levied by the district then
10 extant upon such parcel for indebtedness of the district then outstanding until said
11 indebtedness is paid or refunded.

12 **SECTION 7.**

13 Boundaries of the district.

14 (a) The boundaries of the district or districts shall be as designated by Newton County as set
15 forth in the resolution required in Section 4 of this Act or as may thereafter be added as
16 hereinafter provided.

17 (b) The boundaries of the district or districts may be increased after the initial creation of a
18 district if:

19 (1) Written consent of the owners of any real property sought to be annexed is first
20 obtained;

21 (2) The board of the district adopts a resolution consenting to the annexation; and

22 (3) A resolution is adopted which grants consent to the annexation by the governing
23 authority of such municipalities as may have area within the district before or after the
24 annexation.

25 **SECTION 8.**

26 Debt.

27 Except as otherwise provided in this section, the district may incur debt without regard to the
28 requirements of Article IX, Section V of the Constitution, which debt shall be backed by the
29 full faith and credit and taxing power of the district but shall not be an obligation of the State
30 of Georgia or any other unit of government of the State of Georgia other than the district;
31 provided, however, that the board and the district may not issue bonds validated under or in
32 accordance with Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the "Revenue

1 Bond Law," or in accordance with such other successor provisions governing bond validation
2 generally or as may be provided by law.

3 **SECTION 9.**

4 Cooperation with local governments.

5 The services and facilities provided pursuant hereto may be provided for in a cooperation
6 agreement executed jointly by the board, the county governing authority, and other
7 governmental authorities or agencies within which the district is partially located. The
8 provisions of this section shall in no way limit the authority of Newton County or any such
9 authority or agency to provide services or facilities within the district; and Newton County
10 shall retain full and complete authority and control over any of its facilities located within
11 any district. Said control shall include but not be limited to the modification of, access to,
12 and degree and type of services provided through or by facilities of the county. Nothing
13 contained in this section shall be construed to limit or preempt the application of any
14 governmental laws, ordinances, resolutions, or regulations to the district or the services or
15 facilities provided therein.

16 **SECTION 10.**

17 Powers; exclusions.

18 (a) The district and the board shall have all of the powers necessary or convenient to carry
19 out and effectuate the purposes and provisions of this Act; provided, however, that no
20 provision of this Act shall be construed to authorize or otherwise permit the exercise of
21 condemnation or eminent domain powers. The powers under this section shall include,
22 without limiting the generality of the foregoing, the power to:

- 23 (1) Bring and defend actions;
24 (2) Adopt and amend a corporate seal;
25 (3) Make and execute contracts, agreements, and other instruments necessary or
26 convenient to exercise the powers of the board or to further the public purposes for which
27 the district is created, including, but not limited to, contracts for construction of projects,
28 leases of projects, contracts for sale of projects, agreements for loans to finance projects,
29 contracts with respect to the use of projects, and agreements with other jurisdictions or
30 community improvement districts regarding multijurisdictional projects or services or for
31 other cooperative endeavors to further the public purposes of the district;

1 (4) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and
2 personal property of every kind and character, or any interest therein, in furtherance of
3 the public purposes of the district;

4 (5) Finance (by loan, private grant, lease, or otherwise), construct, erect, assemble,
5 purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend,
6 improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the
7 cost of any project from the proceeds or other funds of the district or from any
8 contributions or loans by persons, corporations, partnerships (whether limited or general),
9 or other entities, all of which the board is authorized to receive, accept, and use;

10 (6) Borrow money to further or carry out its public purposes and to execute bonds, notes,
11 and other obligations, leases, trust indentures, trust agreements, agreements for the sale
12 of its notes, or other obligations, loan agreements, security agreements, assignments, and
13 such other agreements or instruments as may be necessary or desirable, in the judgment
14 of the board, to evidence and to provide security for such borrowing;

15 (7) Issue notes, or other obligations of the district and use the proceeds thereof for the
16 purpose of paying all or any part of the cost of any project and otherwise to further or
17 carry out the public purposes of the district and to pay all reasonably incurred costs of the
18 board incidental to, or necessary and appropriate to, furthering or carrying out such
19 purposes; provided, however, that the board and the district may not issue bonds
20 validated under or in accordance with Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,
21 known as the "Revenue Bond Law," or in accordance with such other successor
22 provisions governing bond validation generally or as may be provided by law;

23 (8) Make application directly or indirectly to any private source for loans, grants,
24 guarantees, or other financial assistance in furtherance of the district's public purposes
25 and to accept and use the same upon such terms and conditions as are prescribed by such
26 private source; provided, however, that the district and the board shall not have the power
27 to apply for, receive, administer, or utilize grants from federal, state, county, or municipal
28 governments or agencies or any other public sources;

29 (9) Enter into agreements with the federal government or any agency thereof to use the
30 facilities or services of the federal government or any agency thereof in order to further
31 or carry out the public purposes of the district;

32 (10) Contract for any period, not exceeding 50 years, with the State of Georgia, state
33 institutions, or any municipal corporation, county, or political subdivision of this state for
34 the use by the district of any facilities or services of the state or any such state institution,
35 municipal corporation, county, or political subdivision or for the use by any state
36 institution or any municipal corporation, county, or political subdivision of the state of
37 any facilities or services of the district, provided that such contracts shall deal with such

1 activities and transactions as the district and any such political subdivision are authorized
2 by law to undertake;

3 (11) Grant, mortgage, convey, assign, or pledge its property revenues or taxes or fees or
4 assessments to be received as security for its notes or other indebtedness and obligations;

5 (12) Receive and use the proceeds of any tax levied by any county or any municipal
6 corporation to pay the costs of any project or for any other purpose for which the board
7 may use its own funds pursuant hereto;

8 (13) Receive and administer gifts, private grants, and devises of money and property of
9 any kind and to administer trusts;

10 (14) Use any real property, personal property, or fixtures or any interest therein or to rent
11 or lease such property to or from others or make contracts with respect to the use thereof
12 or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant
13 options for any such property in any manner as it deems to be the best advantage of the
14 district and the public purposes thereof;

15 (15) Appoint, select, and employ engineers, surveyors, architects, urban or city planners,
16 fiscal agents, attorneys, and others and to fix their compensation and pay their expenses;

17 (16) Encourage and promote the improvement and development of the district and to
18 make, contract for, or otherwise cause to be made long range plans or proposals for the
19 district in cooperation with Newton County and any municipal corporation in which the
20 district is wholly or partially located;

21 (17) Invest its funds, whether derived from the issuance of its bonds or otherwise, in such
22 manner as it may deem prudent and appropriate, without further restriction;

23 (18) Adopt bylaws governing the conduct of business by the board, the election and
24 duties of officers of the board, and other matters which the board determines to deal with
25 in its bylaws;

26 (19) Exercise any power granted by the laws of this state to public or private
27 corporations which is not in conflict with the public purposes of the district; and

28 (20) Do all things necessary or convenient to carry out the powers conferred hereby.

29 (b) The powers enumerated in subsection (a) of this section are cumulative of and in addition
30 to those powers enumerated herein and elsewhere in this Act, and no such power limits or
31 restricts any other power of the board except where expressly noted.

32 **SECTION 11.**

33 Construction; notice, proceeding, publication, referendum.

1 This Act shall be liberally construed to effect the purposes hereof. No notice, proceeding,
2 or publication except those required hereby shall be necessary to the performance of any act
3 authorized hereby, nor shall any such act be subject to referendum.

4 **SECTION 12.**

5 Applicability of Chapter 5 of Title 10 of the O.C.G.A.,
6 the "Georgia Securities Act of 1973."

7 The offer, sale, or issuance of notes or other obligations by the district shall not be subject
8 to regulation under Chapter 5 of Title 10 of the O.C.G.A., the "Georgia Securities Act of
9 1973."

10 **SECTION 13.**

11 Dissolution.

12 (a) A district activated under the provisions of this Act may be dissolved upon the
13 occurrence of any of the following:

14 (1) The adoption of a resolution approving of the dissolution of the district by Newton
15 County and all municipalities if partially within one or more municipalities; or

16 (2) The written consent to the dissolution of the community improvement district by:

17 (A) A majority of the owners of real property within the district subject to taxes, fees,
18 and assessments levied by the board of the district; or

19 (B) The owners of real property constituting at least 75 percent by value of all real
20 property within the district subject to taxes, fees, and assessments levied by the board.

21 For this purpose, value shall be determined by the most recent approved county ad
22 valorem tax digest. The written consent provided for in this paragraph shall be
23 submitted to the tax commissioner of Newton County, who shall certify whether
24 subparagraphs (A) and (B) of this paragraph have been satisfied with respect to the
25 proposed district dissolution.

26 (b) In the event that successful action is taken pursuant to this section to dissolve the district,
27 the dissolution shall become effective at such time as all debt obligations of the district have
28 been satisfied. Following a successful dissolution action and until the dissolution becomes
29 effective, no new projects may be undertaken, obligations or debts incurred, or property
30 acquired.

31 (c) Upon a successful dissolution action, all noncash assets of the district other than public
32 facilities or land or easements to be used for such public facilities, as described in Section
33 2 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be applied

1 to the repayment of any debt obligation of the district. Any cash remaining after all
2 outstanding obligations are satisfied shall be refunded to each property owner in direct
3 proportion to the total amount in taxes, fees, or assessments paid by the property owner
4 relative to the total revenues paid by all properties in the district.

5 (d) When a dissolution becomes effective, the municipal governing authority, or the
6 governing authority of the county if wholly within the incorporated area thereof, shall take
7 title to all property previously in the ownership of the district and all taxes, fees, and
8 assessments of the district shall cease to be levied and collected.

9 (e) A district may be reactivated in the same manner as an original activation.

10

SECTION 14.

11

Repealer.

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