

The Senate Economic Development Committee offered the following substitute to HB 1323:

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 5  
11 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:**

**SECTION 1.**

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

## "CHAPTER 93

36-93-1.

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

36-93-2.

As used in this chapter, the term:

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

(2) 'Appropriate local government' means:

(A) Each county governing authority, if the district is located wholly in the unincorporated part of one or more counties;

(B) Each municipal governing authority, if the district is located wholly within one or more municipalities; or

(C) Each county governing authority and each municipal governing authority, if the district is located partially in the unincorporated area of one or more counties and partially within one or more municipalities.

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

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

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

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

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

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

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

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

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

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

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

(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) 'Government member' means a member of the board named by a local government.
- 30 (11) 'Infrastructure development district' means a geographic area of development  
31 created pursuant to this chapter and limited to the performance of those specialized  
32 functions authorized by this chapter; the governing body of which is a board created and  
33 authorized to function specifically as prescribed in this chapter for the delivery of projects  
34 and the formation, powers, operation, duration, accountability, requirements for  
35 disclosure, and termination of which are as required by this chapter.
- 36 (12) 'Initial costs' means costs related to district projects identified in the petition for  
37 creation of the district.

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

5 (14) 'Open space' means dedicated lands and waters, or interests therein, consistent with  
6 one or more of the following uses:

7 (A) Protection of agricultural or forestry lands;

8 (B) Protection of areas that serve as natural habitat for native plant and animal species;

9 (C) Provision of recreation in the form of outdoor activities, including but not limited  
10 to biking, boating, camping, fishing, golf, hiking, hunting, jogging, running, or  
11 recreational fields;

12 (D) Scenic protection;

13 (E) Water quality protection for rivers, streams, and lakes; or

14 (F) Wetlands protection.

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

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

18 (17) 'Project' means any development, improvement, property, utility, facility, works,  
19 enterprise, or service existing on January 1, 2007, or thereafter undertaken or established  
20 under this chapter. A 'project' shall not include an 'electric utility' as defined in Code  
21 Section 46-1-1.

22 (18) 'Qualified electors' means landowners within the district who, at the time the district  
23 was created, were not shown as a landowner for one or more parcels of real estate within  
24 the district on the ad valorem tax records of the county or counties that have jurisdiction  
25 over the property included in the district.

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

29 (20) 'Service delivery provider' means a local government or local government authority  
30 that provides services to a designated area pursuant to Article 2 of Chapter 70 of this title.

31 (21) 'Sewer system' means any plant, system, facility, or property serving a district, and  
32 any additions, extensions, and improvements constructed or acquired as part of the  
33 system, useful or necessary or having the present capacity for future use in connection  
34 with the collection, treatment, purification, or disposal of sewage, including, without  
35 limitation, industrial wastes resulting from any process of industry, manufacture, trade,  
36 or business or from the development of any natural resource. Without limiting the  
37 generality of the foregoing, the term 'sewer system' includes treatment plants, pumping

1 stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines,  
 2 mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and  
 3 other devices for the reception and collection of sewage from premises connected to the  
 4 devices; and all real and personal property and any interest in all real and personal  
 5 property, rights, easements, and franchises of any nature relating to any such system and  
 6 necessary or convenient for the operation of the system.

7 (22) 'Short-term borrowing' means a debt obligation of the district in the form of loan,  
 8 note, warrant, or other evidence with a maturity not to exceed one year.

9 (23) 'Water management and control facilities' means any lakes, canals, ditches,  
 10 reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works,  
 11 structures, or facilities for the conservation, control, development, utilization, and  
 12 disposal of water, and any purposes appurtenant, necessary, or incidental to the facility  
 13 serving a district. The term 'water management and control facilities' includes all real and  
 14 personal property and any interest in the property, rights, easements, and franchises of  
 15 any nature relating to any such water management and control facilities necessary or  
 16 convenient for the acquisition, construction, reconstruction, operation, or maintenance  
 17 of the water management and control facilities.

18 (24) 'Water system' means a system for the provision of piped water for human  
 19 consumption within a district. Such term includes, but is not limited to, any collection,  
 20 treatment, storage, and distribution facilities under the control of the operator of a water  
 21 system and used primarily in connection with a water system and any collection or  
 22 pretreatment storage facilities not under such control which are used primarily in  
 23 connection with a water system. The term 'water system' includes all real and personal  
 24 property and any interest in the property, rights, easements, and franchises of any nature  
 25 relating to any such water system necessary or convenient for the acquisition,  
 26 construction, reconstruction, operation, or maintenance of the water system.

27  
 28 36-93-3.

29 (a)(1) An appropriate local government may exercise its authority under this chapter  
 30 after holding a public hearing on this chapter and approving a resolution or ordinance that  
 31 authorizes the local government to create and regulate districts as provided under this  
 32 chapter.

33 (2) In addition to the requirement of paragraph (1) of this subsection, an appropriate local  
 34 government may in its discretion condition the exercise of its authority under this chapter  
 35 upon the approval by a majority of the voters residing in the county in an election called  
 36 by such appropriate governing authority for such purpose. Such election shall be called  
 37 and conducted on a date and in the manner authorized by Code Section 21-2-540. The

1 question on the ballot shall be as prescribed by the county election superintendent. The  
2 question shall be submitted to the voters of the entire county.

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

10 (c) The petition shall:

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

13 (2) Specifically identify the projects to be undertaken according to the petitioner's master  
14 plan for the district, the necessity for the projects, the cost of the projects, and the  
15 anticipated need for tax-exempt bonds as then reasonably estimated by the petitioner.  
16 These estimates shall be submitted in good faith but shall not be binding and may be  
17 subject to change;

18 (3) Include a name of the proposed district which shall be generally descriptive of the  
19 locale of the proposed district followed by the words 'Infrastructure Development  
20 District,' or if a district is located within one county, it may be designated '\_\_\_\_ County  
21 Infrastructure Development District No. \_\_\_\_\_'; provided, however, that the proposed  
22 district shall not have the same name as any other district in the same county;

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

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

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

32 (7) Include a designation of the future general distribution, location, and extent of public  
33 and private uses of land proposed for the area within the district as shown on the  
34 appropriate local government's comprehensive land use plan, if one has been adopted;  
35 and

36 (8) Include a master plan.

1 36-93-4.

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

5 (b) A public hearing on the petition shall be conducted by the appropriate local  
6 government no sooner than 60 days nor later than 90 days following the submission of a  
7 petition unless reasonably delayed for reasons related to the appropriate local government's  
8 completing all necessary federal, state, or regional reviews, including, but not limited to,  
9 developments of regional impact reviews pursuant to Code Section 50-32-14, or due to  
10 circumstances beyond the control of the appropriate local government. The hearing shall  
11 include oral and written comments on the petition pertinent to the proposed district,  
12 including the factors specified in subsection (c) of this Code section. The hearing shall  
13 begin after 6:00 P.M. but no later than 7:00 P.M. at an accessible location in the  
14 jurisdiction of each appropriate local government. The petitioner shall cause a notice of  
15 the hearing to be published in the legal organ of the county or municipality wherein the  
16 district's land lies at least once a week for the four successive weeks immediately prior to  
17 the hearing. Such notice shall not be placed in the area reserved for legal advertisements.  
18 The notice shall give the time and place for the hearing, a description of the area to be  
19 included in the district, and any other relevant information which the appropriate local  
20 government may require. All affected local governments and the general public shall be  
21 given an opportunity to appear at the hearing and present oral or written comments on the  
22 petition.

23 (c) The appropriate local government shall consider the entire record of the applicable  
24 hearing, the transcript of the hearing, and applicable factors and shall make a determination  
25 to grant or deny the petition for the establishment of a district. Such applicable factors  
26 shall include, but are not limited to:

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

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

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

34 (4) Whether the community infrastructure and facilities of the district will be compatible  
35 with the capacity and uses of existing local and regional community services and  
36 facilities, provided that, as a condition for approval of creation, the district must plan for  
37 sewer service to be made available to all buildings within the district;

1 (5) Whether the proposed district projects are consistent or inconsistent with any  
2 applicable element or portion of the appropriate local government's comprehensive plan;

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

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

7 (d) The appropriate local government which has jurisdiction over the land to be included  
8 in the district shall not adopt any resolution, ordinance, or contract which would expand  
9 any provision of this chapter.

10 (e) The petitioner shall arrange to provide a copy of the petition to create the district, any  
11 resolution or ordinance establishing a district, and the district's disclosures pursuant to  
12 subsection (b) of Code Section 36-93-23 to the Department of Community Affairs.

13 (f) A resolution or ordinance establishing a district shall:

14 (1) Describe the external boundaries of the district;

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

17 (3) Name the district; and

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

19 (g)(1) A district created pursuant to this chapter is not a general purpose local  
20 government and specifically shall not be included in the term 'local government' as that  
21 term is defined in paragraph (5.2) of Code Section 36-70-2.

22 (2) The powers granted to a district pursuant to paragraphs (11) and (12) of Code Section  
23 36-93-8 may be exercised by the board upon execution of an agreement between the  
24 board and the appropriate local government. Such agreements shall include reasonable  
25 terms, including, but not limited to, describing the services and facilities to be provided  
26 within the district and the source of funding for such services and facilities and may be  
27 amended at any time by mutual consent of the parties to the agreement.

28 36-93-5.

29 (a) The powers granted to a district pursuant to this chapter shall be exercised by the  
30 board. Except as provided in this Code section, the board shall consist of at least five  
31 members, and each member shall hold office for a term of four years and until a successor  
32 is appointed or elected and qualified. All members of the board must be at least 18 years  
33 old, a resident of this state, and a citizen of the United States. The provisions of Code  
34 Section 45-10-3 shall apply to all members of the board who are elected pursuant to this  
35 Code section and their successors. As provided in this Code section, board members may  
36 also be required to be residents of the district.

1 (b) Unless expanded pursuant to this Code section, the initial board named under the  
2 resolution or ordinance establishing the district pursuant to Code Section 36-93-4 shall be  
3 comprised of four members named by the petitioner and one member chosen by each  
4 appropriate local government that issues a resolution or ordinance creating the district. In  
5 the event a district is created by a resolution or ordinance by more than one local  
6 government, each appropriate local government may appoint one member to the board and  
7 the petitioner may appoint one additional petitioner member per additional government  
8 member. An initial board member shall serve until the board, in the case of petitioner  
9 members, or the appropriate local government, in the case of government members,  
10 replaces the member or the member is replaced by an election by the qualified electors  
11 pursuant to subsection (c) of this Code section.

12 (c)(1) Members of the board shall stand for election by qualified electors pursuant to the  
13 following schedule, and such elected members of the board shall be qualified electors:

14 (A) The first petitioner member shall stand for election within six months of the sale  
15 to the general public of land representing 30 percent of the geographic area within the  
16 boundaries of the district;

17 (B) The second petitioner member shall stand for election within six months of the sale  
18 to the general public of land representing 50 percent of the geographic area within the  
19 boundaries of the district;

20 (C) The third petitioner member shall stand for election within six months of the sale  
21 to the general public of land representing 60 percent of the geographic area within the  
22 boundaries of the district; and

23 (D) All remaining petitioner members shall stand for election within six months of the  
24 sale to the general public of land representing 70 percent of the geographic area within  
25 the boundaries of the district or within six years after the effective date of the resolution  
26 or ordinance establishing the district, whichever is sooner.

27 (2) The board shall organize district elections which shall be held at a meeting of the  
28 qualified electors of the district. Notice of the meeting and the election of board members  
29 shall be published once a week for two consecutive weeks in the legal organ of the county  
30 or municipality wherein the district's land lies, and the last day of such publication shall  
31 be not fewer than 14 days nor more than 28 days before the meeting; provided, however,  
32 that such notice shall not be published in the area reserved for legal advertisements. The  
33 chairperson of the board shall conduct the meeting. If the chairperson is an elector or  
34 proxy holder for a qualified elector, he or she may nominate candidates and make and  
35 second motions.

36 (3) At a district election, each qualified elector shall be entitled to cast one vote per acre  
37 of land owned by him or her, located within the district, for each member to be elected;

1 provided, however, that a qualified elector may not cast a vote representing any land  
2 currently used or identified for future use of district facilities, infrastructure, or other  
3 district-specific purposes, including common areas. No qualified elector may cast votes  
4 representing more than 15 percent of the available votes. A qualified elector may vote  
5 in person or by a properly executed written proxy. Each proxy must be signed by one of  
6 the landowners of the property for which the vote is cast and must contain the typed or  
7 printed name of the individual who signed the proxy; the street address, legal description  
8 of the property, or tax parcel identification number; and the number of authorized votes.  
9 If the proxy authorizes more than one vote, each property must be listed and the number  
10 of acres of each property must be included. The signature on a proxy need not be  
11 notarized. A fraction of an acre shall be treated as one acre, entitling the qualified elector  
12 to one vote with respect thereto. Nominees for the board are elected by a majority of  
13 votes cast in accordance with this paragraph.

14 (4) On or before June 1 of each year, the board shall determine the amount of land sold  
15 within the district to the general public and the proportion of that land sold relative to the  
16 overall amount of land within the district boundary for purposes of determining whether  
17 any seats of the board shall be contested by election pursuant to this Code section. Such  
18 determination and nominations for available seats shall be made at a meeting of the board  
19 and shall become part of the official minutes of the district. Such calculation shall not  
20 consider land currently used or identified for future use of district facilities, infrastructure,  
21 or other district-specific purposes.

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

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

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

30 (A) Resigned from the board:

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

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

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

35 (e) A majority of the members of the board constitutes a quorum for the purposes of  
36 conducting its business and exercising its powers and for all other purposes. Action taken

1 by the district shall be upon a vote of a majority of the members present unless general law  
2 or a rule of the district requires a greater number.

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

6 (g) The board shall keep a permanent record book entitled 'Record of Proceedings of  
7 (name of district) Infrastructure Development District,' in which shall be recorded minutes  
8 of all meetings, resolutions, proceedings, certificates, and any and all corporate acts. The  
9 record book and any other documents shall be open to inspection and governed by the  
10 provisions of Article 4 of Chapter 18 of Title 50. The record book shall be kept at a district  
11 office.

12 (h) All meetings of the board shall be open to the public and governed by the provisions  
13 of Code Section 50-14-1. The board shall hold at least one annual meeting on the same  
14 date every year, such date to be published as part of the resolution or ordinance creating  
15 the district. The meeting shall begin no earlier than 6:00 P.M. nor later than 7:00 P.M. and  
16 shall address issues related to the district, including, but not limited to, current projects,  
17 district finances, and potential future projects. In addition, the board shall make available  
18 to any person on an annual basis upon request a report of the names and contact  
19 information of the board members, their employers, and their relationships to other  
20 members of the board and to any officer or employee of the developer. The requirements  
21 for such report shall terminate upon the election of the majority of the board by the  
22 qualified electors of the district.

23 36-93-6.

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

34 (b) The board is authorized to select as a depository for its funds any commercial bank or  
35 trust company, mutual savings bank, savings and loan association, or building and loan  
36 association existing under the laws of this state or of the United States upon such terms and

1 conditions as to the payment of interest by such depository upon the funds so deposited as  
2 the board may deem just and reasonable.

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

4 36-93-7.

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

6 (b) At least 60 days prior to the adoption of the annual budget for the district, the treasurer  
7 shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for  
8 board approval. The proposed budget shall include at the direction of the board an estimate  
9 of all necessary expenditures of the district for the ensuing fiscal year and an estimate of  
10 income of the district from the taxes and assessments provided in this chapter. The board  
11 shall consider the proposed budget item by item and may either approve the budget as  
12 proposed by the treasurer or modify the same in part or in whole. The board shall indicate  
13 its approval of the proposed budget by resolution that shall provide for a hearing on the  
14 proposed budget as approved. Such hearing shall begin no earlier than 6:00 P.M. nor later  
15 than 7:00 P.M. and shall be limited only to consideration of the proposed budget. Notice  
16 of the hearing on the proposed budget shall be published in the legal organ of the county  
17 in which the district is located once a week for two consecutive weeks immediately  
18 preceding the date of the hearing. The notice shall further contain a designation of the date,  
19 time, and place of the public hearing and shall not be placed in the section reserved for  
20 legal advertisements. The board shall make copies of the proposed budget available during  
21 business hours at the district office for no less than two weeks prior to the hearing. At the  
22 time and place designated in the notice, the board shall hear all objections to the budget as  
23 proposed and may make such changes as the board deems necessary. At the conclusion of  
24 the budget hearing, the board shall, by resolution, adopt the budget as finally approved by  
25 the board. The budget for the next fiscal year shall be adopted no less than three months  
26 before end of the district's fiscal year.

27 (c) At least 60 days prior to adoption of the annual budget for the district, the board shall  
28 submit to the appropriate local government, for purposes of disclosure and information  
29 only, the proposed annual budget for the ensuing fiscal year and any proposed long-term  
30 financial plan or program of the district for future operations. The appropriate local  
31 government may review the proposed annual budget and any long-term financial plan or  
32 program and may submit written comments to the board for its assistance and information  
33 in adopting its annual budget and long-term financial plan or program. Upon approval of  
34 the final budget, the board shall submit a copy of such budget to the appropriate local  
35 government.

1 36-93-8.

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

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

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

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

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

27 (3) To borrow money and issue bonds, bond anticipation notes, certificates, warrants,  
28 notes, or other evidence of indebtedness to fund any project or portion thereof or cost  
29 incident thereto as provided in this chapter; to charge, collect, and enforce fees and other  
30 user charges; to apply for and use grants or loans of money or other property from the  
31 United States, this state, a unit of local government, or any person for any district  
32 purposes and enter into agreements required in connection therewith; and to hold, use,  
33 and dispose of such moneys or property for any district purposes in accordance with the  
34 terms of the gift, grant, loan, or agreement relating thereto. The district may incur debt  
35 without regard to the requirements of Article IX, Section V of the Constitution or any  
36 other provision of law prohibiting or restricting the borrowing of money or the creation  
37 of debt by political subdivisions of this state, which debt may be backed by the full faith,

1 credit, and taxing power of the district but shall not be an obligation of this state, the local  
2 government or governments that approved the district, or any local or other unit of  
3 government of this state;

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

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

10 (6) To hold, control, and acquire by donation or purchase, or dispose of, any public  
11 easements, dedications to public use, platted reservations for public purposes, or any  
12 other easements, dedications, or reservations for those purposes authorized by this  
13 chapter and to make use of such easements, dedications, or reservations for any of the  
14 purposes authorized by this chapter;

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

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

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

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

35 (C) Rates, fees, rentals, and charges shall be just and equitable and uniform for users  
36 of the same class and when appropriate may be based or computed either upon the  
37 amount of service furnished, upon the number of average number of persons residing

1 or working in or otherwise occupying the premises served, upon any other factor  
2 affecting the use of the facilities furnished, or upon any combination of the foregoing  
3 factors as may be determined by the board on an equitable basis.

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

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

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

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

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

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

19 (10) To assess and impose upon lands in the district taxes and assessments as provided  
20 by this chapter in conformity with the requirements of Code Sections 48-5-32 and  
21 48-5-32.1 that are applicable to a levying authority;

22 (11) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or  
23 extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the  
24 following, provided that such systems, facilities, and basic infrastructures shall be built  
25 according to the then-current specifications applicable to or within the jurisdiction or the  
26 service area of the service delivery provider in which such systems, facilities, and basic  
27 infrastructures are to be located, and provided, further, that exercising such powers shall  
28 constitute an essential governmental function for a public purpose:

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

31 (B) Water supply, sewer, and waste-water management, reclamation, and reuse or any  
32 combination thereof, and to construct and operate connecting, intercepting, or outlet  
33 sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and  
34 under any street, alley, highway, or other public place or ways; and to dispose of any  
35 effluent, residue, or other byproducts of such system or sewer system. Such sewer or  
36 sewer system shall have the same rights, duties, and obligations as publicly owned  
37 treatment works that discharge treated waste water;

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

5 (D)(i) District roads, sidewalks, bicycle paths, and other pedestrian facilities;

6 (ii) Street lights; and

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

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

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

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

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

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

25 (12) To finance, plan, establish, acquire, construct or reconstruct, enlarge or extend,  
26 equip, and maintain additional facilities for the following, provided that such systems,  
27 facilities, and basic infrastructures shall be built according to the then-current  
28 specifications applicable to or within the jurisdiction or the service area of the service  
29 delivery provider in which such systems, facilities, and basic infrastructures are to be  
30 located, and provided, further, that exercising such powers shall constitute an essential  
31 governmental function for a public purpose:

32 (A) Fire prevention and control, including fire stations, water mains and plugs, fire  
33 trucks, and other vehicles and equipment when authorized by the appropriate local  
34 government;

35 (B) School buildings and related structures, which may be leased, sold, or donated for  
36 use in the public educational system when authorized by the local school board;

37 (C) Control and elimination of pests of public health importance; and

1 (D) Waste collection and disposal;

2 (13) To adopt and enforce appropriate resolutions in connection with the provision of  
3 one or more services through its projects;

4 (14)(A) To impose and enforce certain deed restrictions pertaining to the use and  
5 operation of real property within the district. The district may impose all or certain  
6 portions of the deed restrictions that:

7 (i) Relate to limitations or prohibitions that apply only to external structures and are  
8 deemed by the district to be generally beneficial for the district's landowners and for  
9 which enforcement by the district is appropriate, as determined by the district's board;

10 or

11 (ii) Are consistent with the requirements of a development order or regulatory agency  
12 permit.

13 (B) The board may vote to adopt deed restrictions only when all of the following  
14 conditions exist:

15 (i) The district's geographic area contains no homeowners' associations;

16 (ii) The majority of the board has been elected by electors pursuant to this chapter;  
17 and

18 (iii) The declarant or other party establishing such deed restrictions has provided the  
19 board with a written agreement that such deed restrictions may be adopted by the  
20 district. A memorandum of the agreement shall be recorded in the public records.

21 (C) Within 60 days after such deed restrictions take effect, the district shall cause to  
22 be recorded in the property records in the county in which the district is located the  
23 deed restrictions, stating generally what deed restrictions were adopted and where a  
24 copy of the deed restrictions may be obtained. Districts may impose fines for violations  
25 of such deed restrictions and enforce such deed restrictions and fines through injunctive  
26 relief; and

27 (15) To exercise all of the powers necessary, convenient, incidental, or proper in  
28 connection with any of the powers, duties, or purposes authorized by this chapter,  
29 including any power granted by the laws of this state to public or private corporations  
30 which is not in conflict with the purposes of the district.

31 36-93-9.

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

1 36-93-10.

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

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

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

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

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

8 (5) Regulate activities on any land or any easement owned or controlled by the district;

9 provided, however, the appropriate local government shall retain all home rule and police  
10 powers, including, but not limited to, zoning powers and land use control rights under the  
11 laws of this state; and provided, further, that the district shall dedicate a minimum of 20  
12 percent of its area to permanent open space.

13 36-93-11.

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

27 (b) The district may, at any time, obtain loans for other short-term borrowing, in such  
28 amounts and on such terms and conditions as the board may approve for the purpose of  
29 paying any of the expenses of the district or any cost incurred or that may be incurred in  
30 connection with any of the projects of the district and related operation and maintenance  
31 costs of the projects of the district. Such loans shall bear interest as the board may  
32 determine and may be payable from and secured by a pledge of such funds, revenues,  
33 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 36-93-14 on their property.

10 (b) All bonds, notes, and other obligations of the district shall be authorized by resolution  
11 of its board, such resolution to include a finding that revenues from the project will be  
12 sufficient to repay the bond, note, or other obligation. The board may incur debt for initial  
13 costs upon creation of the district by the appropriate local government and adoption of a  
14 resolution by the board. In the event that a district seeks to finance the construction of  
15 additional projects using tax-exempt bonds, the board shall submit a new petition to the  
16 appropriate local government that specifically identifies the projects to be undertaken, the  
17 necessity for the projects, the costs of the projects, and the anticipated need for tax-exempt  
18 bonds as then reasonably estimated by the petitioner, provided that such estimates shall be  
19 submitted in good faith but shall not be binding and may be subject to change. Obligations  
20 from such debt for each landowner within the district shall be limited to the amount  
21 identified in the calculation found in subsection (i) of Code Section 36-93-14.

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

33 (d) The board shall have power from time to time and whenever it deems it expedient to  
34 refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded  
35 have matured. The board may issue bonds partly to refund bonds then outstanding and  
36 partly for any other purpose permitted under this chapter. The refunding bonds may be  
37 exchanged for the bonds to be refunded, with such cash adjustments as may be agreed

1 upon, or may be sold and the proceeds applied to the purchase or redemption of the bonds  
2 to be refunded.

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

6 (f) Bonds issued by the district may be in such form, either coupon or fully registered, or  
7 both coupon and fully registered, and may be subject to such exchangeability and  
8 transferability provisions as the bond resolution authorizing the issuance of such bonds or  
9 any indenture or trust agreement may provide.

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

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

30 (i) The terms 'cost' and 'project,' when used in the phrases 'cost of the project' and 'cost of  
31 any project' in bond resolutions of the board, in bonds, notes, or other obligations of the  
32 district, or in notices of proceedings to validate such bonds, notes, or other obligations of  
33 the district, shall have the same meanings as provided in paragraphs (6) and (16) of Code  
34 Section 36-93-2.

35 (j) Pursuant to this chapter, all bonds, notes, and other obligations issued under this chapter  
36 and interest paid and all fees, charges, and other revenues derived by the district from the

1 projects provided by this chapter are exempt from all taxes of the state or of any political  
2 subdivision, agency, or instrumentality thereof.

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

5 36-93-13.

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

28 36-93-14.

29 (a) The board shall have the power to levy and assess a district project assessment on all  
30 the real property in the district to construct and maintain projects approved by the  
31 appropriate local government; to pay the principal of, and interest on, any bonds of the  
32 district; and to provide for any sinking or other funds established in connection with any  
33 such bonds. Such district project assessment shall be capped at the amount determined by  
34 the board pursuant to subsection (i) of this Code section. The district project assessment  
35 shall be in addition to all other ad valorem taxes and assessments provided for by law.

1 (b) The board may levy either an ad valorem tax or a maintenance special assessment to  
2 maintain, operate, or preserve the facilities and projects of the district; to pay the principal  
3 of, and interest on, any obligations of the district; and to provide for any sinking or other  
4 funds established in connection with any such obligations. Neither the ad valorem tax for  
5 maintenance and operation nor the maintenance special assessment shall include costs  
6 associated with fee-for-services arrangements, such as payments for utility or water service.  
7 The ad valorem tax for maintenance and operation or the maintenance special assessment  
8 may be evidenced to and certified to the tax authority of the appropriate local government  
9 by the board not later than June 15 of each year and shall be entered by the tax authority  
10 of the appropriate local government on the tax rolls and shall be collected and enforced,  
11 and the proceeds therefrom shall be paid to the district, as provided for in this Code section.  
12 Ad valorem taxes for maintenance and operation and maintenance special assessments shall  
13 be a lien on the property against which assessed until paid and shall be enforceable in like  
14 manner as taxes in the appropriate local government. The amount of the ad valorem tax  
15 for maintenance and operation shall be determined and assessed by the board upon such  
16 lands, which may be all of the lands within the district benefited by the ad valorem tax.  
17 The amount of the maintenance special assessment shall be likewise determined and  
18 assessed and shall be apportioned between the benefited lands in proportion to the benefits  
19 received by each tract of land.

20 (c) Any ad valorem tax levied pursuant to this Code section for maintenance and operation  
21 shall not exceed ten mills on the assessed value as determined in the county tax digest.  
22 Any maintenance special assessment levied pursuant to this Code section shall not exceed  
23 \$100.00 per month. Except for specially designated property as provided for in Code  
24 Section 36-93-24, the taxes and assessments levied by the board upon the properties shall  
25 be equitably apportioned among the properties according to the need for infrastructure  
26 created by the degree of density of development within the district and not for the purpose  
27 of providing infrastructure that would primarily benefit the county or municipality as a  
28 whole. Any tax or assessment so levied shall be collected by the appropriate local  
29 government in which the property is located using the methods and procedures as  
30 designated by the tax authority of the appropriate local government. Delinquent taxes and  
31 assessments shall bear the same interest and penalties as ad valorem taxes of the  
32 appropriate local government in which the property is located and may be enforced and  
33 collected in the same manner. The appropriate local government in which the property is  
34 located may retain a fee to reimburse the actual increased costs, if any, of preparing and  
35 mailing notices to collect such taxes and assessments for the board. The remaining  
36 proceeds shall be transmitted by the appropriate local government to the board and shall  
37 be expended by the board only for the purposes authorized in this chapter.

1 (d) The board shall levy the taxes and assessments provided for in this Code section  
2 between January 1 and June 1 of each calendar year and shall notify in writing the  
3 appropriate tax authority of the county in which the property is located by June 15 each  
4 year so the county may include the levy on the county's regular ad valorem tax bills. The  
5 board shall base the taxes on the tax digest approved by the appropriate local government  
6 and the district project assessments owed by each parcel of land as calculated using the  
7 formula in subsection (i) of this Code section.

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

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

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

22 (h) With the exception of ad valorem taxes for maintenance and operation and  
23 maintenance special assessments, district assessments may be made payable in no more  
24 than 40 yearly installments.

25 (i) Before selling any property to the general public, the board shall determine the  
26 projected initial costs to be repaid by landowners through assessments. These initial costs  
27 shall be apportioned among the parcels to be sold to the general public, and the amount of  
28 such apportionment shall be disclosed as required by this chapter. The board shall  
29 calculate the amount of initial costs and any costs for additional projects, if applicable, for  
30 which each parcel is to be responsible and make that amount available to the public.  
31 Sellers of land within the district shall refer to this calculation for purposes of the  
32 disclosures required in this chapter.

1 36-93-15.

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

14 36-93-16.

15 (a) The district has the right to:

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

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

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

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

31 36-93-17.

32 To the full extent permitted by law, the district may require all lands, buildings, premises,  
33 persons, firms, and corporations within the district to use the water management and  
34 control facilities and water and sewer facilities of the district or any other facility or service  
35 of the district when the district relies on the collection of any rates, fees, or charges to

1 provide said facility or service or to pay principal and interest on debt obligations secured  
2 by a pledge of revenues generated by the collection of such rates, fees, and charges.

3 36-93-18.

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

8 36-93-19.

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

21 36-93-20.

22 The board or any aggrieved person may have recourse to such remedies in law and at  
23 equity as may be necessary to ensure compliance with the provisions of this chapter,  
24 including injunctive relief to enjoin or restrain any person from violating the provisions of  
25 this chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under  
26 this chapter. In case any building or structure is erected, constructed, reconstructed,  
27 altered, repaired, converted, or maintained, or any building, structure, land, or water is  
28 used, in violation of this chapter or of any code, order, resolution, or other regulation made  
29 by the board under authority conferred by this chapter or under law, the board, any  
30 landowner, any appropriate local government, or any citizen residing in the district may  
31 institute any appropriate action or proceeding to prevent such unlawful erection,  
32 construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain,  
33 correct, or prevent such violation; to prevent the occupancy of such building, structure,

1 land, or water; and to prevent any illegal act, conduct, business, or use in or about such  
2 premises, land, or water.

3 36-93-21.

4 Property, real or personal, that belongs to or is owned by the district, or in which the  
5 district has an ownership interest and is funded by a tax-exempt bond issued by the district,  
6 shall be exempt from levy and sale by virtue of an execution; and no execution or other  
7 judicial process shall issue against such property, nor shall any judgment against the district  
8 be a charge or lien on its property or revenues; however, nothing contained herein shall  
9 apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any  
10 lien or pledge given by the district in connection with any of the bonds or obligations of  
11 the district.

12 36-93-22.

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

15 (1) A petition to contract or expand the boundaries of a district shall comply with the  
16 same requirements and processes as a petition to create a new district pursuant to Code  
17 Section 36-93-3. In addition, if the petitioner seeks to expand the district, the petition  
18 shall describe the proposed timetable for construction of any district projects in the area,  
19 the estimated cost of constructing the proposed projects, and the designation of the future  
20 general distribution, location, and extent of public and private uses of land proposed for  
21 the area by the future land use plan element of the local government comprehensive plan  
22 currently in force. If the petitioner seeks to contract the district, the petition shall  
23 describe what projects are currently provided by the district to the area being removed,  
24 and the designation of the future general distribution, location, and extent of public and  
25 private uses of land proposed for the area by the future land use element of the adopted  
26 local government comprehensive plan; and

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

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

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

34 (2) All of the specific community development systems, facilities, and services that it is  
35 authorized to perform have been transferred to the service delivery provider; or

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

2 (c) The district may merge with other districts upon a two-thirds' vote of the qualified  
 3 electors in each district and filing a petition with the appropriate local government which  
 4 shall contain the same information required for a petition for creation pursuant to  
 5 subsection (c) of Code Section 36-93-3, as applicable. The new district formed by a  
 6 merger involving existing districts shall assume all indebtedness of, and receive title to, all  
 7 property owned by the preexisting districts. Prior to filing a petition for merger, the  
 8 districts desiring to merge shall enter into a merger agreement and shall provide for the  
 9 proper allocation of the indebtedness so assumed and the manner in which the assumed  
 10 debt shall be retired.

11 (d) Upon the request of the board of the district, a service delivery provider may adopt a  
 12 resolution or ordinance providing for a plan for the transfer of a specific district service or  
 13 infrastructure from a district to the service delivery provider. The plan must provide for  
 14 the assumption and guarantee of the district debt that is related to the service or  
 15 infrastructure by the local government.

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

17 (A) Upon the transfer of all of the community development services of the district to  
 18 a service delivery provider, the district may be dissolved in accordance with a plan of  
 19 dissolution adopted by the board and filed with the clerk of the superior court;

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

24 (C) If a district has no outstanding financial obligations and no operating or  
 25 maintenance responsibilities, upon the petition of the district, the district may be  
 26 dissolved by a resolution or ordinance of the appropriate local government; or

27 (D) By order of a court of competent jurisdiction.

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

30 36-93-23.

31 (a) The district shall take affirmative steps to provide for the full disclosure of information  
 32 relating to the public financing and maintenance of improvements to real property  
 33 undertaken by the district. The required information shall be made available to all existing  
 34 residents, and to all prospective residents, of the district. The district shall furnish each  
 35 developer of a development within the district with sufficient copies of that information to  
 36 provide a copy to each prospective purchaser of property in that development; and any

1 developer of a development within the district, when required by law to provide a public  
2 offering statement, shall include a copy of information relating to the public financing and  
3 maintenance of improvements in the public offering statement.

4 (b) Subsequent to the establishment of a district under this chapter, each contract for the  
5 sale of a parcel of real property, each contract for the sale of a residential unit, and each  
6 lease agreement for the rental of a residential unit within the district shall include,  
7 immediately prior to the space reserved in the contract for the signature of the purchaser,  
8 the following disclosure statement in boldface and conspicuous type which is larger than  
9 the type in the remaining text of the contract: 'THE PROPERTY YOU ARE ABOUT TO  
10 PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE  
11 DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE  
12 DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS,  
13 OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. CERTAIN OF  
14 THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT  
15 AND THE COSTS OF ADDITIONAL PROJECTS. ALTHOUGH SUBJECT TO SOME  
16 FLUCTUATION, THESE TAXES AND ASSESSMENTS FOR INITIAL COSTS AND  
17 ADDITIONAL PROJECTS SHALL NOT EXCEED \$\_\_\_\_\_ PER YEAR.  
18 ADDITIONAL TAXES AND ASSESSMENTS MAY PAY THE OPERATION AND  
19 MAINTENANCE OF DISTRICT PROJECTS, AND SUCH COSTS ARE CAPPED BY  
20 LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY  
21 AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL  
22 OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.'

23 (c) The limit on taxes and assessments for initial costs and additional projects shall be  
24 determined as provided for in subsection (i) of Code Section 36-93-14. Any person or  
25 entity who seeks to sell land within the district shall use the amount identified by the board  
26 pursuant to subsection (i) of Code Section 36-93-14 for purposes of making the required  
27 disclosures under this Code section.

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

1 36-93-24.

2 (a) A district that is composed of at least 1,500 acres may, within its petition for the  
3 creation of the district pursuant to Code Section 36-93-3, define areas or designate certain  
4 property of the district to pay for improvements, facilities, or services that primarily benefit  
5 that designated area or property and do not generally and directly benefit the district as a  
6 whole.

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

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

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

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

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

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

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

28 (g) In lieu of the general notice required under Code Section 36-93-23, a person who sells  
29 or conveys real property located within the defined area or designated property of the  
30 district shall provide the following prescribed notice, which shall be disclosed in the same  
31 manner as notice required under Code Section 36-93-23: "THE PROPERTY YOU ARE  
32 ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District)  
33 INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District)  
34 INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES  
35 OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.  
36 CERTAIN OF THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF  
37 THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. ALTHOUGH

1 SUBJECT TO SOME FLUCTUATION, THESE TAXES AND ASSESSMENTS FOR  
 2 INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT EXCEED \$\_\_\_\_\_   
 3 PER YEAR. ADDITIONAL TAXES AND ASSESSMENTS PAY THE OPERATION   
 4 AND MAINTENANCE COSTS OF DISTRICT PROJECTS, AND SUCH COSTS ARE   
 5 CAPPED BY LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO   
 6 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS   
 7 AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

8 'FURTHERMORE, THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE   
 9 IS WITHIN A DESIGNATED AREA OF THE (Name of District) INFRASTRUCTURE   
 10 DEVELOPMENT DISTRICT AND YOUR LAND WILL BE SUBJECT TO HIGHER   
 11 TAXES THAN OTHER LAND WITHIN THE DISTRICT. YOUR RATE OF TAXES   
 12 WILL BE HIGHER BY \$\_\_\_\_\_ ON EACH \$1,000.00 OF ASSESSED VALUATION   
 13 THAN LAND NOT WITHIN THE DESIGNATED AREA.'

14 (h) The limit on taxes and assessments for initial costs and costs for additional projects   
 15 shall be determined as provided for in subsection (i) of Code Section 36-93-14. Any   
 16 person or entity who seeks to sell land within the district shall use the amount identified by   
 17 the board pursuant to subsection (i) of Code Section 36-93-14 for purposes of making the   
 18 required disclosures under this Code section.

19 36-93-25.

20 (a) Article 2 of Chapter 70 of this title shall not apply to districts established under this   
 21 chapter; provided, however, that a service delivery provider that is the designated provider   
 22 of a service for the area in which a district is to be located pursuant to a service delivery   
 23 strategy under Article 2 of Chapter 70 of this title shall receive a copy of the petition filed   
 24 with the appropriate local government within five days of submission by the petitioner to   
 25 the appropriate local government and shall have the right of first refusal to provide the   
 26 service to the district. Such right of first refusal shall be exercised within 30 days of receipt   
 27 of the petition unless such time is extended by agreement between the appropriate local   
 28 government, the service delivery provider, and the petitioner, and such decision shall be   
 29 communicated to the appropriate local government no fewer than ten days before its public   
 30 hearing on the petition. If the service delivery provider exercises its right to serve the   
 31 district, it shall enter into a contract with the district, such contract to include the   
 32 requirement that the service delivery provider provide its service within the district in   
 33 conformity with a mutually agreed upon timetable of service. A service delivery provider's   
 34 requirement that the infrastructure meet the existing standards used within the service area   
 35 shall not constitute a refusal to provide service to the district. Likewise, a service delivery

1 provider's requirement that the district construct, or pay the costs of construction of, any  
 2 infrastructure necessary to provide service to the district shall not constitute a refusal to  
 3 provide such service. Such construction or costs of construction may include any  
 4 infrastructure required to connect district infrastructure to the service delivery provider's  
 5 existing infrastructure and the costs of any modification, improvement, or construction of  
 6 infrastructure necessary to provide service to the district. The district shall only be required  
 7 to construct or pay for construction of infrastructure project costs that are directly  
 8 associated with the infrastructure necessary to serve the anticipated usage within the  
 9 district.

10 (b) Water or sewer fees charged to customers located outside the geographic boundaries  
 11 of a service delivery provider and within the boundaries of a district shall not be arbitrarily  
 12 higher than the fees charged to customers receiving such service which are located within  
 13 the geographic boundaries of the service delivery provider.

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

20 36-93-26.

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

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

## 26 SECTION 2.

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

31 "(a) Any person who owns or operates a facility of any type or who desires to erect,  
 32 modify, alter, or commence operation of a facility of any type which results or will result  
 33 in the discharge of pollutants from a point source into the waters of the state shall obtain  
 34 from the director a permit to make such discharge. Any person desiring to erect, modify,  
 35 alter, or commence operation of a facility which will result in such discharge but which is

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

### 16 SECTION 3.

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

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

### 28 SECTION 4.

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

32 "(b) When sufficient evidence is provided by the applicant that the water withdrawn or  
 33 used from the ground is not consumptively used, a permit therefor shall be issued by the  
 34 division without a hearing and without the conditions provided in subsection (c) of this  
 35 Code section. Applications for such permits shall set forth such facts as the division shall

1 deem necessary to enable it to establish and maintain adequate records of all water uses.  
2 The director shall give preference to existing permits or modification of existing permits  
3 in conformity with existing service delivery strategy agreements required in Chapter 70 of  
4 Title 36."

5 **SECTION 5.**

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

12 **SECTION 6.**

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