

House Bill 645

By: Representatives Mills of the 25<sup>th</sup> and Rogers of the 26<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

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

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

19 **SECTION 1.**

20 This Act shall be referred to as the "City of Oakwood Community Improvement District  
21 Act."



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

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

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

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

28 (10) "Mayor" means the duly elected mayor of the City of Oakwood.

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

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

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

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

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

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

## 22 **SECTION 4.**

### 23 **Creation.**

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

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

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

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

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

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

## 24 **SECTION 5.**

### 25 Administration, appointment, and election of board members.

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

30 (1) Two board members shall be appointed by the mayor of the City of Oakwood and  
31 confirmed by a majority of the city council, one of whom shall be a member of the city  
32 council, to serve in posts 6 and 7. Three board members shall be elected by the vote of  
33 electors, and two members shall be elected by the vote of equity electors. The members  
34 representing the electors and equity electors shall be elected to serve in post positions 1  
35 through 5, respectively. Each elected board member must receive a majority of the votes

1 cast for the post for which he or she is a candidate. Votes for posts 1 and 2 shall be cast  
2 by electors, and votes for posts 3, 4, and 5 shall be cast by the equity electors. The initial  
3 term of office for the members representing posts 1 and 3 shall be one year. The initial  
4 term of office for the members representing posts 2 and 5 shall be two years, and the  
5 initial term of office of the members representing post 3 shall be three years. Thereafter,  
6 all terms of office shall be for four years except the appointed board members who shall  
7 serve at the pleasure of the appointing body which appointed him or her. Elected board  
8 members shall be subject to recall in the same manner as elected.

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

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

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

1 Oakwood or within a municipality, respectively, then the board member of the district  
2 appointed by such governing authority in which the district is no longer located shall  
3 cease to be a board member.

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

## 10 **SECTION 6.**

### 11 Taxes, fees, and assessments.

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

1 (b) The board shall levy the taxes provided for in subsection (a) of this section subsequent  
2 to the report of the assessed taxable values for the current calendar year and notify in writing  
3 the collecting governing bodies so they may include the levy on their regular ad valorem tax  
4 bills, if possible.

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

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

#### 14 **SECTION 7.**

##### 15 Boundaries of the district.

16 (a) The boundaries of the district or districts shall be as designated as such by the City of  
17 Oakwood as set forth in the resolution required in Section 4 of this Act or as may thereafter  
18 be added as hereinafter provided.

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

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

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

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

#### 27 **SECTION 8.**

##### 28 Debt.

29 Except as otherwise provided in this section, the district may incur debt without regard to the  
30 requirements of Article IX, Section V of the Constitution of the State of Georgia, which debt  
31 shall be backed by the full faith and credit and taxing power of the district but shall not be  
32 an obligation of the State of Georgia or any other unit of government of the State of Georgia  
33 other than the district; provided, however, that the board and the district may not issue bonds



1 validated under or in accordance with Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,  
 2 known as the "Revenue Bond Law," or in accordance with such other successor provisions  
 3 governing bond validation generally or as may be provided by law.

4 **SECTION 9.**

5 Cooperation with local governments.

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

18 **SECTION 10.**

19 Powers.

20 (a) The district and the board created pursuant hereto shall have all of the powers necessary  
 21 or convenient to carry out and effectuate the purposes and provisions hereof, including,  
 22 without limiting the generality of the foregoing, the power to:

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

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

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

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

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

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

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

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

1 of any facilities or services of the district, provided that such contracts shall deal with  
2 such activities and transactions as the district and any such political subdivision with  
3 which the district contracts are authorized by law to undertake;

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

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

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

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

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

19 (16) Encourage and promote the improvement and development of the district and to  
20 make, contract for, or otherwise cause to be made long range plans or proposals for the  
21 district in cooperation with the City of Oakwood and any municipal corporations in  
22 which the district is wholly or partially located;

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

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

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

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

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



1 effective, no new projects may be undertaken, obligations or debts incurred, or property  
2 acquired.

3 (c) Upon a successful dissolution action, all noncash assets of the district other than public  
4 facilities or land or easements to be used for such public facilities, as described in Section  
5 2 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be applied  
6 to the repayment of any debt obligation of the district. Any cash remaining after all  
7 outstanding obligations are satisfied shall be refunded to each property owner in direct  
8 proportion to the total amount in taxes, fees, or assessments paid by the property owner  
9 relative to the total revenues paid by all properties in the district.

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

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

15 **SECTION 14.**

16 Repealer.

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