Senate Bill 200

By: Senators Grant of the 25th and Thompson of the 33rd

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to provide for a comprehensive program for the creation of infrastructure development districts; to provide for a short title; to provide for definitions; to provide for the powers, duties, and authority of infrastructure development districts; to provide for a board to administer infrastructure development districts; to provide for appointment or election of members of an infrastructure development district board; to provide for levying taxes, fees, and assessments; to provide for the debt of infrastructure development districts; to provide for bonds, notes, and other obligations of infrastructure development districts; to provide for the form of bonds; to provide for consolidation, termination, or dissolution of infrastructure development districts; to provide for notice of the creation of the district; to amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to change certain provisions regarding permits for discharging pollutants into waters; to change certain provisions regarding permits for surface-water withdrawal, diversion, or impoundment; to change certain provisions regarding permits for withdrawing, obtaining, or using ground water; to provide for related matters; to provide a contingent effective date; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new Chapter 93 to read as follows:

″CHAPTER 93

36-93-1.

This chapter shall be known and may be cited as the 'Georgia Smart Infrastructure Growth Act of 2007.'

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 that has approved a resolution or ordinance authorizing it to create and regulate districts as provided under this chapter if the district or proposed district is located wholly in the unincorporated part of one or more counties;

(B) Each municipal governing authority that has approved a resolution or ordinance authorizing it to create and regulate districts as provided under this chapter if the district or proposed district is located wholly within one or more municipalities; or

(C) Each county governing authority and each municipal governing authority that has approved a resolution or ordinance authorizing it to create and regulate districts as provided under this chapter if the district or proposed 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 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;

(H) The creation of operation and maintenance reserve funds, debt service reserve funds, repair and replacement reserve funds, and debt service funds;

(I) Working capital;

(J) Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine;

(K) The cost of issuance of bonds pursuant to this chapter, including advertisements, printing, and credit enhancement and related interest rate swaps, hedges, or similar items, whether incurred in connection with the issuance of or after the issuance of bonds;

(L) The cost of any election held pursuant to this chapter;

(M) The discount, if any, on the sale or exchange of bonds;

(N) Administrative expenses;

(O) Such other expenses as may be necessary or incidental to the acquisition, construction, demolition, redevelopment, or reconstruction of any project or to the financing of any project, or to the development of any lands within a district; and

(P) Payments, contributions, and dedications required as a condition to receive any government approval or permit necessary to accomplish any district purpose or the exercise of any district power.

(7) 'Deed restrictions' means those covenants, conditions, and restrictions contained in any applicable deeds, agreements, or declarations of covenants and restrictions that govern the use and operation of real property within the district and, for such covenants, conditions, and restrictions, there is no homeowners´ association or property owners´ association having respective enforcement powers.

(8) 'District' means an infrastructure development district.

(9) 'District roads' means highways, streets, roads, alleys, sidewalks, bridges, paths, trails, and thoroughfares of all kinds and descriptions within a district, including any landscaping and storm drains associated therewith.

(10) 'Government member' means a member of the board named by a local government.

(11) 'Infrastructure development district' means a geographic area of development created pursuant to this chapter and limited to the performance of those specialized functions authorized by this chapter; the governing body of which is a board created and

authorized to function specifically as prescribed in this chapter for the financing of projects and the formation, powers, operation, duration, accountability, requirements for disclosure, and termination of which are as required by this chapter.

(12) 'Initial costs' means costs related to district projects identified in the petition for creation of the district.

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

(14) 'Local governing authority' means any county or municipal corporation of the State of Georgia other than a county that is subject to a millage rate cap on county-wide taxes levied for the purpose of general maintenance and operation of the county government.

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

(A) Protection of agricultural or forestry lands;

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

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

(D) Scenic protection;

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

(F) Storm-water utility purposes; or

(G) Wetlands protection.

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

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

(18) 'Project' means any development, improvement, property, utility, facility, works, enterprise, or service existing on January 1, 2009, or thereafter undertaken or established under this chapter. A project shall not include an 'electric utility' or a 'gas company' as defined in Code Section 46-1-1.

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

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

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

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

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

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

(25) 'Water system' means a system for the provision of piped water for human consumption within a district. Such system shall have at least 15 service connections or regularly serve at least 25 individuals. Such term includes, but is not limited to, any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. The term 'water system' includes all real and personal property and any interest in the property, rights, easements, and franchises of any nature relating to any such water system necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance of the water system. Such water

system shall be subject to the provisions of Part 5 of Article 3 of Chapter 5 of Title 12, the 'Georgia Safe Water Drinking Act of 1977.'

36-93-3.

(a) A local governing authority may exercise its powers granted by this chapter after holding a public hearing for the purpose of discussing the use of districts as a tool for financing services and infrastructure and approving a resolution or ordinance that authorizes the local government to create and regulate districts as provided under this chapter. Such local governing authority may hold more than one public hearing for discussion purposes; however, the vote to approve a resolution or ordinance authorizing the local governing authority to create and regulate districts shall be held no more than 60 days following the last public hearing held to discuss the use of districts as a financing tool.

(b) Prior to requesting the creation of a district, the petitioner shall submit the proposed development plan to the appropriate local government for consideration. Such petitioner shall complete all required federal, state, or regional reviews including, but not limited to, development of regional impact reviews pursuant to paragraph (3) of subsection (b) of Code Section 50-8-7.1 and Code Section 50-32-14 with respect to such proposed development plan.

(c)(1) A petitioner seeking to create a district to finance such development shall file a petition requesting creation of a district with the appropriate local government. The development of regional impact review, along with any other required federal, state, or regional review, shall be completed prior to the appropriate local government´s taking final action on the approval of a district.

(2) In the event that the findings of the development of regional impact review are that the development is in the best interest of the state but that certain modifications in the development plan should be made, the petitioner and the appropriate local government shall take steps to modify the development accordingly prior to the appropriate local government´s taking final action on the approval of the district.

(3) In the event the findings of the development of regional impact review are that the development is not in the best interest of the state, the petitioner and the appropriate local government shall mitigate any negative impact identified in the development plan prior to the appropriate local government´s taking final action on the approval of the district. Additionally, the appropriate local government may in its discretion condition its approval of such a district upon the approval by a majority of voters residing in the geographic boundaries of such local government in an election. Such election shall be called by the local governing authority and conducted on a date and in the manner

authorized by Code Section 21-2-540. The question on the ballot shall be as prescribed by the county election superintendent.

(d) The petition shall:

(1) Be signed by all holders of title of the taxable land within the proposed district as determined by the most recent approved county ad valorem tax digest or documentation demonstrating that the petitioner has control, including, but not limited to, by deed, trust agreement, or contract, of the taxable land;

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

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

(4) Include a name of the proposed district which shall be generally descriptive of the locale of the proposed district followed by the words 'Infrastructure Development District' or, if a district is located within one county, it may be designated '____ County Infrastructure Development District No. _____'; provided, however, that the proposed district shall not have the same name as any other district in the state or of any county or municipality in the state;

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

(6) Based upon reasonably available data, identify water and sewer facilities located within the district, if any;

(7) Based upon available data, include the proposed timetable for construction of the district projects and the estimated cost of constructing the proposed projects. These estimates shall be submitted in good faith but shall not be binding and may be subject to change;

(8) Include a designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district as shown on the appropriate local government´s comprehensive land use plan, if one has been adopted pursuant to Article 1 of Chapter 70 of this title; and

(9) Include a preliminary master plan.

36-93-4.

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

(b) A public hearing on the petition shall be conducted by the appropriate local government no sooner than 60 days nor later than 90 days following the submission of a petition unless reasonably delayed for reasons related to the appropriate local government´s completing all necessary federal, state, or regional reviews including, but not limited to, development of regional impact reviews pursuant to paragraph (3) of subsection (b) of Code Section 50-8-7.1 and Code Section 50-32-14 or due to circumstances beyond the control of the appropriate local government. The hearing shall include oral and written comments on the petition pertinent to the proposed district, including the factors specified in subsection (c) of this Code section. The hearing shall begin after 6:00 P.M. but no later than 7:00 P.M. at an accessible location in the jurisdiction of each appropriate local government. The petitioner shall cause a notice of the hearing to be published in the legal organ of the county or municipality wherein the district´s land lies at least once a week for the four successive weeks immediately prior to the hearing. Such notice shall not be placed in the area reserved for legal advertisements. The notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the appropriate local government may require. All affected local governments and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

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

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

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

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

(4) Whether the infrastructure and facilities of the district will be compatible with the capacity and uses of existing local and regional services and facilities, provided that, as a condition for approval of creation, the district shall submit a proposed postdevelopment storm-water management system plan and shall plan for sewer service to be made available to all buildings within the district;

(5) Whether the proposed district projects are consistent or inconsistent with any applicable element or portion of the appropriate local government´s comprehensive plan adopted pursuant to Article 1 of Chapter 70 of this title or an existing service delivery agreement pursuant to Article 2 of Chapter 70 of this title;

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

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

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

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

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

(1) Describe the external boundaries of the district;

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

(3) Name the district; and

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

(g)(1) A district created pursuant to this chapter is not a general purpose local government and specifically shall not be included in the term 'local government' as that term is defined in paragraph (5.2) of Code Section 36-70-2; and the creation of a district shall not override any agreement entered into between local governing authorities pursuant to Article 2 of Chapter 70 of this title or any other provision of law.

(2) The powers granted to a district pursuant to paragraphs (11) and (12) of Code Section 36-93-8 may be exercised by the board upon execution of an agreement between the board and the appropriate local government. Such agreements shall include reasonable terms including, but not limited to, describing the services and facilities to be provided within the district and the source of funding for such services and facilities and; If amended must be agreed to by mutual consent of the board and the local government unit or units.

36-93-5.

(a) The powers granted to a district pursuant to this chapter shall be exercised by the board. Except as provided in this Code section, the board shall consist of at least five

members and member shall hold office for a term of four years and until a successor is appointed or elected and qualified. All members of the board must be at least 18 years old, a resident of this state, and a citizen of the United States. The provisions of Code Section 45-10-3 shall apply to all members of the board who are elected pursuant to this Code section and their successors. As provided in this Code section, board members may also be required to be residents of the district.

(b) Unless expanded pursuant to this Code section, the initial board named under the resolution or ordinance establishing the district pursuant to Code Section 36-93-4 shall be composed of four members named by the petitioner and one member who shall be appointed by each appropriate local government that issues a resolution or ordinance creating the district at such local government´s discretion. In the event a district is created by a resolution or ordinance by more than one local government, each appropriate local government shall appoint one member to the board and the petitioner may appoint one additional petitioner member per additional government member. In the event that an appropriate local government chooses not to appoint a board member, the petitioner may appoint one additional member. An appropriate local government shall have immunity with respect to any action taken against such government´s appointee as a member of the district board. The government appointee shall have immunity for actions taken as a member of the district board for acts or omissions in the scope of his or her duty as a member of the district board or an employee, appointee, or official of the appropriate local government. An initial board member shall serve until the board, in the case of petitioner members, or the appropriate local government, in the case of government members, replaces the member or the member is replaced by an election by the qualified electors pursuant to subsection (c) of this Code section.

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

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

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

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

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

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

(3) At a district election, each qualified elector shall be entitled to cast one vote per acre of land owned by him or her, located within the district, for each member to be elected; provided, however, that a qualified elector may not cast a vote representing any land currently used or identified for future use of district facilities, infrastructure, or other district specific purposes including common areas. No qualified elector may cast votes representing more than 15 percent of the available votes. A qualified elector may vote in person or by a properly executed written proxy. Each proxy must be signed by one of the landowners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as one acre, entitling the qualified elector to one vote with respect thereto. In the event that an acre or a fraction of an acre is jointly owned, only one such owner shall be entitled to vote as a qualified elector. Nominees for the board are elected by a majority of votes cast in accordance with this paragraph.

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

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

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

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

(A) Resigned from the board:

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

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

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

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

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

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

(h) All meetings of the board shall be open to the public and governed by the provisions of Chapter 14 of Title 50. The board shall hold at least one annual meeting on the same date every year, such date to be published as part of the resolution or ordinance creating the district. The meeting shall begin no earlier than 6:00 P.M. nor later than 7:00 P.M. and shall address issues related to the district including, but not limited to, current projects, district finances, and potential future projects. In addition, the board shall make available to any person upon request a report of the names and contact information of the board members, their employers, and their relationships to other members of the board and to any officer or employee of the developer.

36-93-6.

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

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

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

36-93-7.

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

(b) At least 60 days prior to the adoption of the annual budget for the district, the treasurer shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income of the district from the taxes and assessments provided in this chapter. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the treasurer or modify the same in part or in whole. The board shall indicate its approval of the proposed budget by resolution that shall provide for a hearing on the proposed budget as approved. Such hearing shall begin no earlier than 6:00 P.M. nor later than 7:00 P.M. and shall be limited only to consideration of the proposed budget. Notice of the hearing on the proposed budget shall be published in the legal organ of the county in which the district is located once a week for two consecutive weeks immediately preceding the date of the hearing. The notice shall further contain a designation of the date, time, and place of the public hearing and shall not be placed in the section reserved for legal advertisements. The board shall make copies of the proposed budget available during business hours at the district office for no less than two weeks prior to the hearing. At the

time and place designated in the notice, the board shall hear all comments on and objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget for the next fiscal year shall be adopted no more than three months and no less than one month before the end of the district´s fiscal year.

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

(d) The district shall provide for the full disclosure of information relating to the public and private financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and to all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy, and any developer of a residential development within the district, when required by law to provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement.

(e) The Department of Community Affairs shall keep a current list of districts and their disclosures pursuant to this chapter and shall make such studies, reports, and other documents available for inspection.

36-93-8.

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

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

(2) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers. All public works contracts shall be made in accordance with the

provisions of Chapter 91 of this title. All contracts let by the board for any goods, supplies, or materials to be purchased exceeding $100,000.00 shall require a notice of bids be advertised twice in the legal organ of the county allowing a reasonable amount of time for responsive bids to be submitted and shall be subject to this Code section. The bid of the lowest responsive and responsible bidder for contracts for purchase of any goods, supplies, or materials shall be accepted unless all bids are rejected because the bids are too high or the board determines it is in the best interests of the district to reject all bids. The board may require such bidders to furnish bond with a responsible surety to be approved by the board. Contracts for the operation, maintenance, and management of district projects shall contain the following provisions:

(A) With the exception of contracts with the federal government, the state, a state or local authority, a board of education, or a political subdivision of the state, any district contract shall terminate absolutely and without further obligation on the part of the district at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed as provided in this Code section; and

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

(3) To borrow money and issue bonds, bond anticipation notes, certificates, warrants, notes, or other evidence of indebtedness to fund any project or portion thereof or cost incident thereto as provided in this chapter; to charge, collect, and enforce fees and other user charges; to apply for and use grants or loans of money or other property from the United States, this state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto. The district may incur debt without regard to the requirements of Article IX, Section V of the Constitution or any other provision of law prohibiting or restricting the borrowing of money or the creation of debt by political subdivisions of this state. Debt of the district may be backed by the full faith, credit, and taxing power of the district but shall not be an obligation of this state, the local government or governments that approved the district, or any local government or other unit of government of this state;

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

The board may also adopt resolutions which may be necessary for the conduct of district business;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following, provided that such systems, facilities, and basic infrastructures shall be built according to the then-current specifications applicable to or within the jurisdiction or the service area of the service delivery provider in which such systems, facilities, and basic infrastructures are to be located and the district shall be subject to Chapter 9 of Title 25 and other provisions of state or federal law that are generally applicable to government entities providing the same infrastructure, facility, or service as the district, and provided, further, that exercising such powers shall constitute an essential governmental function for a public purpose:

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

(B) Water supply, sewerage, and waste-water management, reclamation, and reuse or any combination thereof, and to construct and operate connecting, intercepting, or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways; to connect such mains, conduits, and pipelines with existing infrastructure upon entering into an agreement to do so with the owner of such existing infrastructure; and to dispose of any effluent, residue, or other byproducts of such system or sewer system. Such sewerage or sewerage system shall have the same rights, duties, and obligations as publicly owned treatment works that discharge treated waste water;

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

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

(ii) Street lights; and

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

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

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

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

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

(I) Natural gas distribution facilities to be connected with and used by an existing municipal natural gas system to provide natural gas to the district; and

(J) Any other project within or outside the boundaries of a district consistent with the local government´s comprehensive plan;

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

(A) Fire prevention and control including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment when authorized by the service delivery provider and pursuant to a written agreement with such service delivery provider;

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

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

(D) Waste collection and disposal when authorized by the service delivery provider and pursuant to a written agreement with such service delivery provider;

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

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

(i) Relate to limitations or prohibitions that apply only to external structures and are deemed by the district to be generally beneficial for the district´s landowners and for which enforcement by the district is appropriate, as determined by the district´s board; provided, however, that such deed restrictions shall not have retroactive application; or

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

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

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

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

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

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

(15) To demolish buildings or other facilities located in areas of a district that are within the limits of a municipality and to redevelop areas located in a district that is authorized within the limits of a municipality; and

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

including any power granted by the laws of this state to public or private corporations which is not in conflict with this chapter or with the purposes of the district.

36-93-9.

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

36-93-10.

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

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

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

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

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

(5) Regulate activities on any land or any easement owned or controlled by the district; provided, however, the appropriate local government shall retain all home rule and police powers including, but not limited to, code enforcement, regulatory authority, zoning powers, and land use control powers under the laws of this state; and provided, further, with the exception of districts performing redevelopment activities inside municipalities, that the district shall dedicate a minimum of 20 percent of its area to permanent open space.

36-93-11.

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

(b) The district may, at any time, obtain loans for other short-term borrowing in such amounts and on such terms and conditions as the board may approve for the purpose of paying any of the expenses of the district or any cost incurred or that may be incurred in connection with any of the projects of the district and related operation and maintenance costs of the projects of the district. Such loans shall bear interest as the board may determine and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine; provided, however, that the board shall disclose the interest rate or rates payable on such loans and shall notify each property owner of his or her share of such costs as will be repaid on such loan or loans.

36-93-12.

(a) Bonds, notes, or other obligations issued by the district shall be paid from revenues and other property pledged to pay such bonds, notes, or other obligations. In the event the district defaults on its obligations, landowners within the district shall only be responsible for such obligations that are associated with their property and not the obligations of the district as a whole or the obligations of any other landowner. Landowners of the district shall have the right to satisfy or make arrangements to satisfy the proportionate share of obligations related to the district and any related reasonable interest as determined by the calculation provided in subsection (i) of Code Section 36-93-14 on their property.

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

(c) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such time or times not more than 40 years from their respective dates, shall bear interest at such rate or rates which may be fixed or may fluctuate or otherwise change from time to time, may be subject to interest rate hedge arrangements, shall be subject to redemption on such terms, and shall contain such other terms, provisions, covenants, assignments, and conditions as the resolution authorizing the issuance of such bonds, notes, or other

obligations may permit or provide. The resolution authorizing the issuance of the bonds may delegate to such officers charged with the responsibility of issuing such bonds the authority to set the final terms, conditions, and details thereof, including the interest rate or rates and maturity, within reasonable parameters established and set forth in such resolution.

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

(e) There shall be no limitation upon the interest rates of any maximum interest rate or rates on any bonds, notes, or other obligations of the district.

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

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

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

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

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

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

36-93-13.

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

36-93-14.

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

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

(c) Any ad valorem tax levied pursuant to this Code section for maintenance and operation shall not exceed ten mills on each dollar of the assessed value of the property as determined in the county tax digest. Any maintenance special assessment levied pursuant to this Code section shall not exceed $100.00 per month. Except for specially designated property as provided for in Code Section 36-93-24, the taxes and assessments levied by the board upon the properties shall be equitably apportioned among the properties according to the need for infrastructure created by the degree of density of development within the district and not for the purpose of providing infrastructure that would primarily benefit the county or municipality as a whole. Any tax or assessment so levied shall be collected by the appropriate local government in which the property is located using the methods and procedures as designated by the tax authority of the appropriate local government.

Delinquent taxes and assessments shall bear the same interest and penalties as ad valorem taxes of the appropriate local government in which the property is located and may be enforced and collected in the same manner. The appropriate local government in which the property is located may retain a fee to reimburse the actual increased costs, if any, of preparing and mailing notices to collect such taxes and assessments for the board. The remaining proceeds shall be transmitted by the appropriate local government to the board and shall be expended by the board only for the purposes authorized in this chapter.

(d) The board shall levy the taxes and assessments provided for in this Code section between January 1 and August 1 of each calendar year and shall notify in writing the appropriate tax authority of the appropriate local government in which the property is located by August 1 each year so the appropriate local government may include the levy on its regular ad valorem tax bills. The board shall use the assessed values of property contained in the tax digest approved by the county to determine property tax liability and shall based the district project assessments owed by each parcel of land as calculated using the formula provided in subsection (i) of this Code section.

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

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

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

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

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

calculate the amount of initial costs and any costs for additional projects, if applicable, for which each parcel is to be responsible which costs shall be apportioned to each parcel at a pro rata share based on acreage and make that amount available to the public. Sellers of land within the district shall refer to this calculation for purposes of the disclosures required in this chapter.

36-93-15.

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

36-93-16.

(a) The district has the right to:

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

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

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

(c) In any sale of land, the district may certify to the tax commissioner, tax collector, or other public official holding such sale the amount of taxes due to the district upon the lands sought to be sold; and the district shall share in the disbursement of the sales proceeds in accordance with the provisions of this chapter and other laws of the state.

36-93-17.

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

36-93-18.

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

36-93-19.

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

36-93-20.

The board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with the provisions of this chapter, including injunctive relief to enjoin or restrain any person from violating the provisions of this chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this chapter. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this chapter or of any code, order, resolution, or other regulation made

by the board under authority conferred by this chapter or under law, the board, any landowner, any appropriate local government, or any citizen residing in the district may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or prevent such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

36-93-21.

Property, real or personal, that belongs to or is owned by the district, or in which the district has an ownership interest and is funded by a tax-exempt bond issued by the district, shall be exempt from levy and sale by virtue of an execution; and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district. In the event that taxes on such property become delinquent or government liens are placed on such property, the federal government, the state government, or any political subdivision of the state with an interest in such taxes or liens may pursue a civil action against the district to recover such moneys. Any such government shall be entitled to recover costs and attorney´s fees accrued in the pursuit of such action.

36-93-22.

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

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

(2) A public hearing shall be held in the same manner and with the same public notice as required for creation of a new district pursuant to this chapter. The hearing shall include oral and written comments on the petition pertinent to the proposed district, including the factors specified in subsection (c) of this Code section. The hearing shall begin after 6:00 P.M. but no later than 7:00 P.M. at an accessible location in the jurisdiction of each appropriate local government. The petitioner shall cause a notice of the hearing to be published in the legal organ of the county or municipality wherein the district´s land lies at least once a week for the four successive weeks immediately prior to the hearing. Such notice shall not be placed in the area reserved for legal advertisements. The notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the appropriate local government may require. All affected local governments and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition. The appropriate local government shall consider the record of the public hearing and the factors set forth in Code Section 36-93-3 in making its determination to grant or deny the petition.

(b) The district shall remain in existence unless:

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

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

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

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

(d) Upon the request of the board of the district, a service delivery provider may adopt a resolution or ordinance providing for and entering into a contract for the transfer of a specific district service or infrastructure from a district to the service delivery provider.

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

(A) Upon the transfer of all of the public facilities and service obligations of the district to a service delivery provider, the district may be dissolved in accordance with a plan of dissolution adopted by the board and filed with the clerk of the superior court;

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

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

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

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

36-93-23.

(a) The district shall provide for the full disclosure of information relating to the public and private financing and maintenance of improvements to real property undertaken by the district. The required information shall be made available to all existing residents, and to all prospective residents, of the district. The district shall furnish each developer of a development within the district with sufficient copies of that information to provide a copy to each prospective purchaser of property in that development; and any developer of a development within the district, when required by law to provide a public offering statement, shall include a copy of information relating to the public financing and maintenance of improvements in the public offering statement.

(b) Subsequent to the establishment of a district under this chapter, each contract for the sale of a parcel of real property, each contract for the sale of a residential unit, and each lease agreement for the rental of a residential unit within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldface and conspicuous type which is larger than the type in the remaining text of the contract: 'THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. CERTAIN OF THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. THESE TAXES AND ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT

EXCEED $_____ PER YEAR. ADDITIONAL TAXES AND ASSESSMENTS MAY PAY THE OPERATION AND MAINTENANCE OF DISTRICT PROJECTS, AND SUCH COSTS ARE CAPPED BY LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THIS DISCLOSURE AND THE CONTRACT FOR SALE IN WHICH IT APPEARS SHALL BE ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.'

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

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

36-93-24.

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

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

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

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

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

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

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

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

(g) In lieu of the general notice required under Code Section 36-93-23, a person who sells or conveys real property located within the defined area or designated property of the district shall provide the following prescribed notice, which shall be disclosed in the same manner as notice required under Code Section 36-93-23: 'THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. CERTAIN OF THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. THESE TAXES AND ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT EXCEED $_____ PER YEAR. ADDITIONAL TAXES AND ASSESSMENTS PAY THE OPERATION AND MAINTENANCE COSTS OF DISTRICT PROJECTS, AND SUCH COSTS ARE CAPPED BY LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THIS DISCLOSURE AND THE CONTRACT FOR SALE IN WHICH IT APPEARS SHALL BE ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.

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

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

36-93-25.

(a) A service delivery provider that is the designated provider of a service for the area in which a district is to be located pursuant to a service delivery strategy under Article 2 of Chapter 70 of this title shall receive a copy of the petition to create a district that is filed with the appropriate local government within five days of submission by the petitioner to the appropriate local government and shall have the right of first refusal to provide the service to the district. Such right of first refusal shall be exercised within 30 days of receipt of the petition unless such time is extended by agreement between the appropriate local government, the service delivery provider, and the petitioner, and such decision shall be communicated to the appropriate local government no fewer than ten days before its public hearing on the petition. If the service delivery provider exercises its right to serve the district, it shall enter into a contract with the district, such contract to include the requirement that the service delivery provider provide its service within the district in conformity with a mutually agreed upon timetable of service. A service delivery provider´s requirement that the infrastructure meet the existing standards used within the service area shall not constitute a refusal to provide service to the district. Likewise, a service delivery provider´s requirement that the district construct, or pay the costs of construction of, any infrastructure inside or outside of the district necessary to provide service to the district shall not constitute a refusal to provide such service. Such construction or costs of construction may include any infrastructure required to connect district infrastructure to the service delivery provider´s existing infrastructure and the costs of any modification, improvement, or construction of infrastructure necessary to provide service to the district. The district shall only be required to construct or pay for construction of infrastructure project costs that are proportionately associated with the infrastructure necessary to serve the anticipated usage within the district. Finally, a service delivery provider´s delay in providing service due to a lack of permit capacity or due to documented intended use of existing permit capacity shall not constitute a refusal to provide service to the district.

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

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

36-93-26.

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

(b) This Code section shall stand repealed on January 31, 2013.″

SECTION 2.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by revising subsection (a) of Code Section 12-5-30, relating to permits for construction, modification, or operation of facilities which discharge pollutants into waters, as follows:

″(a) Any person who owns or operates a facility of any type or who desires to erect, modify, alter, or commence operation of a facility of any type which results or will result in the discharge of pollutants from a point source into the waters of the state shall obtain from the director a permit to make such discharge. Any person desiring to erect, modify, alter, or commence operation of a facility which will result in such discharge but which is not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the discharge of same. Any person who is operating a facility which results in such discharge as of July 1, 1974, may continue to make such discharge pending final action by the director on the application for such discharge permit, provided that such application has been filed with the director by September 29, 1974; and provided, further, that such discharge does not present an immediate health hazard to the public. The director, under the conditions he <u>or she</u> prescribes, may require the submission of such plans, specifications, and other information as he <u>or she</u> deems relevant in connection with the issuance of such permits. The director may, after public notice and opportunity for public hearing, issue a permit which authorizes the person to make such discharge, upon condition that such discharge meets or will meet, pursuant to any schedule of compliance included in such permit, all water quality standards, effluent limitations, and all other requirements established pursuant to this article. <u>The director shall give preference to existing permits</u>

or modification of existing permits in conformity with existing service delivery strategy agreements required in Chapter 70 of Title 36.″

SECTION 3.

Said chapter is further amended by revising subsection (f) of Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm uses, as follows:

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

SECTION 4.

Said chapter is further amended by revising subsection (b) of Code Section 12-5-96, relating to permits to withdraw, obtain, or use ground water, as follows:

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

SECTION 5.

This Act shall become effective on January 1, 2009; provided, however, that this Act shall only become effective on January 1, 2009, upon the ratification of a resolution at the November, 2008, state-wide general election that amends the Constitution so as to authorize the General Assembly to provide by general law for the creation and comprehensive regulation of infrastructure development districts. If such resolution is not so ratified, this Act shall not become effective and shall stand repealed in its entirety on January 1, 2009.

SECTION 6.

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