

House Bill 645 (AS PASSED HOUSE AND SENATE)

By: Representatives Mills of the 25th and Rogers of the 26th

A BILL TO BE ENTITLED
AN ACT

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

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

19 **SECTION 1.**

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

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

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

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

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

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

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

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

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

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

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

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

22 **SECTION 4.**

23 **Creation.**

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

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

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

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

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

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

24 **SECTION 5.**

25 Administration, appointment, and election of board members.

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

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

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

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

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

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

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

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

10 **SECTION 6.**

11 Taxes, fees, and assessments.

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

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

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

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

14 **SECTION 7.**

15 **Boundaries of the district.**

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

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

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

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

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

27 **SECTION 8.**

28 **Debt.**

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

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

4 **SECTION 9.**

5 Cooperation with local governments.

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

18 **SECTION 10.**

19 Powers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **SECTION 14.**

16 Repealer.

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