

House Bill 816

By: Representatives Henson of the 87th, Watson of the 91st, Chambers of the 81st, Drenner of the 86th, Millar of the 79th, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide for the creation of one or more community improvement districts in DeKalb
2 County and in each municipality therein; to provide for a short title; to provide for the
3 purposes of such districts; to provide for definitions; to provide for boards to administer said
4 districts; to provide for the appointment and election of members of such boards; to provide
5 for taxes, fees, and assessments; to provide for the boundaries of such districts; to provide
6 for debt of such districts other than bonded indebtedness; to provide for cooperation with
7 local governments; to provide for powers of such boards; to provide for construction; to
8 provide that no notice, proceeding, publication, or referendum shall be required; to provide
9 for dissolutions; to provide the procedures connected with all of the foregoing; to provide for
10 severability; to provide for an effective date; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Short title.

15 This Act shall be known and may be cited as the "DeKalb County Community Improvement
16 Districts Act of 2007."

17 **SECTION 2.**

18 Purpose.

19 The purpose of this Act shall be to provide for the creation of one or more community
20 improvement districts within DeKalb County and each municipality therein, and such
21 districts shall be created for the provision of such of the following governmental services and
22 facilities as may be provided for in the resolution activating each district created hereby, or
23 as may be adopted by resolutions of the majority of the electors and the majority of the

1 equity electors present and voting at a meeting of electors and equity electors. A quorum
 2 shall consist of those electors and equity electors present. No proxy votes may be cast.
 3 Notice of said meeting shall be given to said electors and equity electors by publishing notice
 4 thereof in the legal organ of DeKalb County at least once each week for four weeks prior to
 5 such meeting:

6 (1) Street and road construction and maintenance, including curbs, sidewalks, street
 7 lights, and devices to control the flow of traffic on streets and roads;

8 (2) Parks and recreational areas and facilities;

9 (3) Storm water and sewage collection and disposal systems;

10 (4) Development, storage, treatment, purification, and distribution of water;

11 (5) Public transportation;

12 (6) Terminal and dock facilities and parking facilities; and

13 (7) Such other services and facilities as may be provided for by general law.

14 **SECTION 3.**

15 Definitions.

16 As used in this Act, the term:

17 (1) "Agricultural" means the growing of crops for sale or the raising of animals for sale
 18 or use, including the growing of field crops and fruit or nut trees, the raising of livestock
 19 or poultry, and the operation of dairies, horse boarding facilities, and riding stables.

20 (2) "Board" means the governing body created for the governance of each community
 21 improvement district authorized by this Act.

22 (3) "Caucus of electors" means for each district the meeting of electors as provided in
 23 this Act at which the elected board members of the district are elected. A quorum at such
 24 caucus shall consist of those electors present and a majority of those present and voting
 25 shall be necessary to elect board members. No proxy votes may be cast.

26 (4) "Cost of the project" or "cost of any project" means and includes:

27 (A) All costs of acquisition by purchase or otherwise, construction, assembly,
 28 installation, modification, renovation, or rehabilitation incurred in connection with any
 29 project or any part of any project;

30 (B) All costs of real property, fixtures, or personal property used in or in connection
 31 with or necessary for any project or for any facilities related thereto, including, but not
 32 limited to, the cost of all land, estates for years, easements, rights, improvements, water
 33 rights, connections for utility services, fees, franchises, permits, approvals, licenses, and
 34 certificates; the cost of securing any such franchises, permits, approvals, licenses, or
 35 certificates; the cost of preparation of any application therefor; and the cost of all

1 fixtures, machinery, equipment including all transportation equipment and rolling stock,
2 furniture, and other property used in or in connection with or necessary for any project;

3 (C) All financing charges and loan fees and all interest on bonds, notes, or other
4 obligations of a district which accrue or are paid prior to and during the period of
5 construction of a project and during such additional period as the board may reasonably
6 determine to be necessary to place such project in operation;

7 (D) All costs of engineering, surveying, architectural, and legal services and all
8 expenses incurred by engineers, surveyors, architects, and attorneys in connection with
9 any project;

10 (E) All expenses for inspection of any project;

11 (F) All fees of fiscal agents, paying agents, and trustees for bondholders under any trust
12 agreement, indenture of trust, or similar instrument or agreement; all expenses incurred
13 by any such fiscal agents, paying agents, and trustees; and all other costs and expenses
14 incurred relative to the issuances of any bonds, notes, or other obligations for any
15 project;

16 (G) All expenses of or incidental to determining the feasibility or practicability of any
17 project;

18 (H) All costs of plans and specifications for any project;

19 (I) All costs of title insurance and examinations of title with respect to any project;

20 (J) Repayment of any loans made for the advance payment of any part of the foregoing
21 costs, including interest thereon and any other expenses of such loans;

22 (K) Administrative expenses of the board and such other expenses as may be necessary
23 for or incidental to any project or the financing thereof or the placing of any project in
24 operation; and

25 (L) The establishment of a fund or funds for the creation of a debt service reserve, a
26 renewal and replacement reserve, or such other funds or reserves as the board may
27 approve with respect to the financing and operation of any project and as may be
28 authorized by any bond resolution, trust agreement, indenture of trust, or similar
29 instrument or agreement pursuant to the provisions of which the issuance of any bonds,
30 notes, or other obligations of the district may be authorized.

31 Any cost, obligation, or expense incurred for any of the foregoing purposes shall be a part
32 of the cost of the project and may be paid or reimbursed as such out of the proceeds of
33 bonds, notes, or other obligations issued by the district.

34 (5) "District" means the geographical area designated as such by the resolution of the
35 governing body or bodies consenting to the creation of the community improvement
36 district or as thereafter modified by any subsequent resolution of the governing body or
37 bodies within which the district is or is to be located, or a body corporate and politic

1 being a community improvement district created and activated pursuant hereto, as the
2 context requires or permits.

3 (6) "Electors" means the owners of real property used nonresidentially within the district
4 which is subject to taxes, fees, and assessments levied by the board, as they appear on the
5 most recent ad valorem real property tax return records of DeKalb County, or one officer
6 or director of a corporate elector, one trustee of a trust which is an elector, one partner of
7 a partnership elector, or one designated representative of an elector whose designation
8 is made in writing. An owner of property that is subject to taxes, fees, or assessments
9 levied by the board shall have one vote for an election based on numerical majority. An
10 owner of multiple parcels has one vote, not one vote per parcel, for an election based on
11 numerical majority. Multiple owners of one parcel have one vote for an election based
12 on numerical majority which must be cast by one of their number who is designated in
13 writing.

14 (7) "Equitably apportioned among the properties subject to such taxes, fees, and
15 assessments according to the need for governmental services and facilities created by the
16 degree of density of development of each such property," with reference to taxes, fees,
17 and assessments levied by the board, means that the burden of the taxes, fees, and
18 assessments shall be apportioned among the properties subject thereto based upon the
19 values established in the most recent ad valorem tax reassessment of such properties
20 certified by the chairperson of the DeKalb County Board of Tax Assessors, or may be
21 apportioned among the properties subject thereto in direct or approximate proportion to
22 the receipt of services or benefits derived from the improvements or other activities for
23 which the taxes, fees, or assessments are to be expended, or may be apportioned in any
24 other manner or combination of manners deemed equitable by the board, including, but
25 not limited to, the recognition of differential benefits which may reasonably be expected
26 to accrue to new land development in contrast to lands and improvements already in
27 existence at the time of creation of the community improvement district.

28 (8) "Equity electors" means electors who cast votes equal to each \$1,000.00 value of all
29 owned real property within the district which is then subject to taxes, fees, and
30 assessments levied by the board. The value of real property shall be the assessed value.
31 In the event the owner shall be a corporation, trust, partnership, multiple owners, or any
32 other entity, one person shall be designated as elector and such designation shall be made
33 in writing.

34 (9) "Forestry" means the planting and growing of trees for sale in a program which
35 includes reforestation of harvested trees, regular underbrush and undesirable growth
36 clearing, fertilizing, pruning, thinning, cruising, and marking which indicate an active

1 tree-farming operation. It does not include the casual growing of trees on land otherwise
2 idle or held for investment, even though some harvesting of trees may occur thereon.

3 (10) "Project" means the acquisition, construction, installation, modification, renovation,
4 or rehabilitation of land, interests in land, buildings, structures, facilities, or other
5 improvements, including operation of facilities or other improvements, located or to be
6 located within or otherwise providing service to the district and the acquisition,
7 installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery,
8 equipment, furniture, or other property of any nature whatsoever used on, in, or in
9 connection with any such land, interest in land, building, structure, facility, or other
10 improvement; the creation, provision, enhancement, or supplementing of public services
11 such as fire, police, and other services, provided that same do not conflict with or
12 duplicate existing public services; and all for the essential public purposes set forth in
13 Section 2 of this Act.

14 (11) "Property owner" or "owner of real property" means any entity or person shown as
15 a taxpayer for one or more parcels of real estate on the most recent ad valorem tax
16 records of DeKalb County within the district. Ownership as shown by the most recent
17 ad valorem real property tax records of DeKalb County shall be prima-facie proof of
18 ownership. Multiple owners of one parcel shall constitute one property owner and shall
19 designate in writing one of their number to represent the whole.

20 (12) "Property used nonresidentially" means property or any portion thereof used for
21 neighborhood shopping, planned shopping center, general commercial, transient lodging
22 facilities, tourist services, office or institutional, office services, light industry, heavy
23 industry, central business district, parking, or other commercial or business use or vacant
24 land zoned or approved for any of the aforementioned uses which do not include
25 residential.

26 (13) "Residential" means a specific work or improvement undertaken primarily to
27 provide single-family or multifamily dwelling accommodations for persons and families
28 and such community facilities as may be incidental or appurtenant thereto.

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

SECTION 5.

Administration, appointment, and election of board members.

(a) Each district created pursuant to this Act shall be administered by a board composed of a minimum of seven board members to be appointed and elected as provided in this section. One board member shall be appointed by the governing authority of DeKalb County. One board member shall be appointed by the governing authority of each municipality, if any portion of the district lies within the incorporated area of such municipality; three board members shall be elected by the vote of electors; and three members shall be elected by the vote of equity electors. The board shall be seven in number plus one for each member appointed by the governing authority of each municipality as provided above. The members representing the electors and equity electors shall be elected to serve in post positions 1 through 6, respectively. Each elected board member must receive a majority of the votes cast for the post for which he or she is a candidate. Votes for posts 1, 2, and 3 shall be cast by electors and votes for posts 4, 5, and 6 shall be cast by equity electors. The initial term of office for the members representing posts 1 and 4 shall be one year. The initial term of office for the members representing posts 2 and 5 shall be two years and the initial term of office of the members representing posts 3 and 6 shall be three years. Thereafter, all terms of office shall be for three years, except the appointed board members who serve at the pleasure of the governing body which appointed them respectively.

(b) The initial board members to be elected as provided in subsection (a) of this section shall be elected in a caucus of electors which shall be held within 60 days after the adoption of the resolutions and obtaining the written consents herein provided at such time and place within the district as the governing authority of DeKalb County, or the governing body of the municipality if the district lies wholly within the incorporated area thereof, shall designate after notice thereof shall have been given to said electors by publishing same in the legal organ of DeKalb County. Thereafter, there shall be conducted biennially, not later than 60 days following the last day for filing ad valorem real property tax returns in DeKalb County, a caucus of said electors at such time and place within the district as the board shall designate in such notice for the purpose of electing board members to those board member positions whose terms expire or are vacant. If a vacancy occurs in an elected position on the board, the board shall, within 60 days thereof, call a special election to fill the same to be held within 60 days of the call unless such vacancy occurs within 180 days of the next regularly scheduled election, in which case a special election may, but need not, be called. For any election held under the provisions of this section, notice thereof shall be given to said electors by publishing notice thereof in the legal organ of DeKalb County at least once each week for four weeks prior to such election.

1 (c) Board members shall be subject to recall as any other elected public official by the
2 electors defined by this Act.

3 (d) Board members, including appointed board members, shall be electors within the district.
4 If a board member ceases to be an elector, such board member's position shall be declared
5 vacant as of the date of the event terminating such status.

6 (e) Board members shall receive no compensation for their services, but shall be reimbursed
7 for actual expenses incurred in the performance of their duties. They shall elect one of their
8 number as chairperson and another as vice chairperson. They shall also elect a secretary and
9 a treasurer, or a secretary-treasurer, either of whom may, but need not, be a member of the
10 board or an elector.

11 (f) If the boundaries of a district are subsequently changed after creation of the district to
12 include land within a municipality which was not a party to the creation of the district, or if
13 a municipality's boundaries are changed to include land within an existing district, or if a
14 municipality is subsequently created by Act of the General Assembly, the governing
15 authority of the municipality shall acquire the right to appoint a member to the board of the
16 district upon entering into the cooperation agreement provided for in Section 9 of this Act.
17 If the boundaries of a district or municipality are subsequently changed, or if a new
18 municipality is subsequently created by Act of the General Assembly after creation of a
19 district to include land within the unincorporated area of DeKalb County and the district
20 originally had no land within the unincorporated area of DeKalb County, the governing
21 authority of DeKalb County shall acquire the right to appoint a member to the board of the
22 district upon entering into the cooperation agreement provided for in Section 9 of this Act.
23 If, by municipal annexation or by deannexation of land from a district, the district no longer
24 includes land within the unincorporated area of DeKalb County or within a municipality,
25 respectively, then the board member of the district appointed by such governing authority in
26 which the district is no longer located shall cease to be a board member.

27 (g) Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code,' shall not apply to the
28 election of district board members. The district board may adopt such bylaws not
29 inconsistent herewith to provide for any matter concerning such elections.

30 **SECTION 6.**

31 Taxes, fees, and assessments.

32 (a) The board may levy taxes, fees, and assessments within the district only on real property
33 used nonresidentially, specifically excluding all property exempt from ad valorem taxation
34 under the Constitution or laws of the State of Georgia; all property used for residential,
35 agricultural, or forestry purposes; and all tangible personal property and intangible property.

1 Any tax, fee, or assessment so levied shall not exceed 2.5 percent of the aggregate assessed
2 value of all such real property. The taxes, fees, and assessments levied by the board shall be
3 equitably apportioned among the properties subject to such taxes, fees, and assessments
4 according to the need for governmental services and facilities created by the degree of
5 density of development of each such property. The proceeds of taxes, fees, and assessments
6 levied by the board shall be used only for the purpose of providing governmental services
7 and facilities which are specially required by the degree of density of development within the
8 district and not for the purpose of providing those governmental services and facilities
9 provided to the county or municipality as a whole. Any tax, fee, or assessment so levied
10 shall be collected by DeKalb County, if the district lies wholly or partly within the
11 unincorporated area of DeKalb County, or by the municipality within which it lies, if it is
12 wholly within a municipality, in the same manner as taxes, fees, and assessments are levied
13 by DeKalb County or the municipality, respectively. Delinquent taxes shall bear the same
14 interest and penalties as DeKalb County or municipal ad valorem taxes and may be enforced
15 and collected in the same manner. The proceeds of taxes, fees, and assessments so levied,
16 less a fee to cover the costs of collection of 1 percent of such proceeds, but not more than
17 \$25,000.00 in any one calendar year, shall be transmitted by DeKalb County or the
18 municipality who collects same, to the board and shall be expended by the board only for the
19 purposes authorized by this Act.

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

24 (c) If, but for this provision, a parcel of real property is removed from a district or otherwise
25 would become nontaxable, it shall continue to bear its tax millage then extant upon such
26 event for bonded indebtedness of the district then outstanding until said bonded indebtedness
27 then outstanding is paid or refunded.

28 (d) Each property owner paying taxes, fees, or assessments levied by the board for any
29 public facility as set forth in Section 2 of this Act may receive a credit equal to the present
30 value of all such taxes, fees, and assessments toward any impact fee as may be levied by
31 DeKalb County against such property for system improvements which are in the same
32 category as said public facility in accordance with Chapter 71 of Title 36 of the O.C.G.A.,
33 the 'Georgia Development Impact Fee Act.' Application for such development impact fee
34 credit may be granted by legislative action of the governing authority of DeKalb County in
35 its discretion.

SECTION 7.

Boundaries of the districts.

(a) The boundaries of each district shall be as designated as such by the governing authority of DeKalb County if wholly within the unincorporated area of DeKalb County and such municipalities within which the district may be partially located if partially within the unincorporated area of DeKalb County and partially within one or more municipalities, or by the governing authority of a municipality if wholly within the incorporated area thereof, as set forth in the resolutions required in Section 4 of this Act, or as may thereafter be added as provided in this Act.

(b) The boundaries of a district may be increased after the initial creation of a district pursuant to the following:

(1) Written consent of a majority of the owners of real property within the area sought to be annexed and which will be subject to taxes, fees, and assessments levied by the board of the district;

(2) Written consent of owners of real property within the area sought to be annexed which constitutes at least 75 percent by value of the property which will be subject to taxes, fees, and assessments levied by the board. For this purpose, value shall be determined by the most recent approved county ad valorem tax digest;

(3) The adoption of a resolution consenting to the annexation by the board of the district; and

(4) The adoption of a resolution consenting to the annexation by the governing authorities of DeKalb County, if any portion of the district is or is to be in the unincorporated area of DeKalb County, and such municipalities as may have area within the district before or after the annexation.

(c) The boundaries of a district may also be increased after the initial creation of a district if:

(1) Written consent of the owners of any real property sought to be annexed and which will not be subject to taxes, fees, and assessments levied by the board of the district is first obtained;

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

(3) A resolution is adopted which grants consent to the annexation by the governing authorities of DeKalb County, if any portion of the district is in the unincorporated area of DeKalb County, and such municipalities as may have area within the district before or after the annexation.

1 (d) Property which is not subject to taxes, fees, and assessments levied by the board of the
 2 district and which is adjacent to, contiguous to, or abutting property within the district may
 3 be annexed by:

4 (1) The adoption of a resolution approving the annexation by the board of the district;
 5 and

6 (2) The adoption of a resolution granting consent to the annexation by the governing
 7 authorities of DeKalb County, if any portion of the district is in the unincorporated area
 8 of DeKalb County, and such municipalities as may have area within the district before
 9 or after the annexation.

10 **SECTION 8.**

11 Debt.

12 Except as otherwise provided in this section, each district may incur debt without regard to
 13 the requirements of Article IX, Section V of the Constitution of Georgia, or any other
 14 provision of law, prohibiting or restricting the borrowing of money or the creation of debt
 15 by political subdivisions of the State of Georgia, which debt shall be backed by the full faith
 16 and credit and taxing power of the district but shall not be an obligation of the State of
 17 Georgia or any other unit of government of the State of Georgia other than the district.

18 **SECTION 9.**

19 Cooperation with local governments.

20 The services and facilities provided pursuant to this Act shall be provided for in a
 21 cooperation agreement executed jointly by the board, the governing body of DeKalb County,
 22 and any municipalities within which the district is partially located. The provisions of this
 23 section shall in no way limit the authority of DeKalb County or any such municipality to
 24 provide services or facilities within the district; and DeKalb County or such municipalities
 25 shall retain full and complete authority and control over any of its facilities located within
 26 its respective areas of any district. Said control shall include, but not be limited to, the
 27 modification of, access to, and degree and type of services provided through or by facilities
 28 of the municipality or county. Nothing contained in this section shall be construed to limit
 29 or preempt the application of any governmental laws, ordinances, resolutions, or regulations
 30 to the district or the services or facilities provided therein.

SECTION 10.

Powers.

(a) Each district and its board created pursuant hereto shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, without limiting the generality of the foregoing, the power:

(1) To bring and defend actions;

(2) To adopt and amend a corporate seal;

(3) To make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the board or to further the public purposes for which the district is created, including, but not limited to, contracts for construction of projects, leases of projects, contracts for sale of projects, agreements for loans to finance projects, contracts with respect to the use of projects, and agreements with other jurisdictions or community improvement districts regarding multijurisdictional projects or services or for other cooperative endeavors to further the public purposes of the district;

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

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

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

(7) To issue bonds, notes, or other obligations of the district and use the proceeds for the purpose of paying all or any part of the cost of any project and otherwise to further or carry out the public purposes of the district and to pay all costs of the board incidental to, or necessary and appropriate to, furthering or carrying out such purposes;

(8) To make application directly or indirectly to any federal, state, county, or municipal government or agency or to any other source, whether public or private, for loans, grants, guarantees, or other financial assistance in furtherance of the district's public purposes

1 and to accept and use the same upon such terms and conditions as are prescribed by such
2 federal, state, county, or municipal government or agency or other source;

3 (9) To enter into agreements with the federal government or any agency thereof to use
4 the facilities or services of the federal government or any agency thereof in order to
5 further or carry out the public purposes of the district;

6 (10) To contract for any period, not exceeding 50 years, with the State of Georgia, state
7 institutions, or any municipal corporation, county, or political subdivision of this state for
8 the use by the district of any facilities or services of the state or any such state institution,
9 municipal corporation, county, or political subdivision of this state, or for the use by any
10 state institution or any municipal corporation, county, or political subdivision of this state
11 of any facilities or services of the district, provided that such contracts shall deal with
12 such activities and transactions as the district and any such political subdivision with
13 which the district contracts are authorized by law to undertake;

14 (11) To receive and use the proceeds of any tax levied by any county or any municipality
15 to pay the costs of any project or for any other purpose for which the board may use its
16 own funds pursuant hereto;

17 (12) To receive and administer gifts, grants, and devises of money and property of any
18 kind and to administer trusts;

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

24 (14) To appoint, select, and employ engineers, surveyors, architects, urban or city
25 planners, fiscal agents, attorneys, and others and to fix their compensation and pay their
26 expenses;

27 (15) To encourage and promote the improvement and development of the district and to
28 make, contract for, or otherwise cause to be made long-range plans or proposals for the
29 district in cooperation with DeKalb County and any municipality in which the district is
30 wholly or partially located;

31 (16) To adopt bylaws governing the conduct of business by the board, the election and
32 duties of officers of the board, and other matters which the board determines to deal with
33 in its bylaws;

34 (17) To exercise any power granted by the laws of this state to public or private
35 corporations which is not in conflict with the public purposes of the district;

1 (18) To create, provide, enhance, or supplement public services such as fire, police, and
2 other such services as may be deemed necessary, provided that said public services do
3 not conflict with or duplicate existing DeKalb County or municipal services; and

4 (19) To do all things necessary or convenient to carry out the powers conferred by this
5 section.

6 (b) The powers enumerated in each paragraph of subsection (a) of this section are
7 cumulative of and in addition to those powers enumerated in this section and elsewhere in
8 this Act; and no such power limits or restricts any other power of the board.

9 **SECTION 11.**

10 Bonds - generally.

11 (a) Notes or other obligations issued by a district other than general obligation bonds shall
12 be paid solely from the property pledged to pay such notes or other obligations. General
13 obligation bonds issued by any district shall constitute a general obligation of the district to
14 the repayment of which the full faith and credit and taxing power of the district shall be
15 pledged.

16 (b) All bonds, notes, and other obligations of any district shall be authorized by resolution
17 of its board, adopted by a majority vote of the board members at a regular or special meeting.

18 (c) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such time
19 or times not more than 40 years from their respective dates, shall bear interest at such rate
20 or rates which may be fixed or may fluctuate or otherwise change from time to time, shall
21 be subject to redemption on such terms, and shall contain such other terms, provisions,
22 covenants, assignments, and conditions as the resolution authorizing the issuance of such
23 bonds, notes, or other obligations may permit or provide. The terms, provisions, covenants,
24 assignments, and conditions contained in or provided or permitted by any resolution of the
25 board authorizing the issuance of such bonds, notes, or other obligations shall bind the board
26 members of the district then in office and their successors.

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

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

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

5 (g) Bonds shall bear a certificate of validation. This signature of the clerk of the Superior
 6 Court of DeKalb County may be made on the certificate of validation of such bonds by
 7 facsimile or by manual execution, stating the date on which such bonds were validated; and
 8 such entry shall be original evidence of the fact of judgment and shall be received as original
 9 evidence in any court in this state.

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

24 (i) The terms 'cost of the project' and 'cost of any project' shall have the meaning prescribed
 25 in this Act whenever those terms are referred to in bond resolutions of a board, in bonds,
 26 notes, or other obligations of the district, or in notices or proceedings to validate such bonds,
 27 notes, or other obligations of a district.

28 **SECTION 12.**

29 Authorized contents of agreements and instruments; use of proceeds of sale bonds,
 30 notes, and other obligations; subsequent issues of obligations.

31 (a) Subject to the limitations and procedures provided by this section and by Section 11 of
 32 this Act, the agreements or instruments executed by a board may contain such provisions not
 33 inconsistent with law as shall be determined by the board.

34 (b) The proceeds derived from the sale of all bonds, notes, and other obligations issued by
 35 a district shall be held and used for the ultimate purpose of paying, directly or indirectly as

1 permitted by this Act, all or part of the cost of any project, or for the purpose of refunding
2 any bonds, notes, or other obligations issued in accordance with this Act.

3 (c) Issuance by a board of one or more series of bonds, notes, or other obligations for one
4 or more purposes shall not preclude it from issuing other bonds, notes, or other obligations
5 in connection with the same project or with any other projects; but the proceeding wherein
6 any subsequent bonds, notes, or other obligations are issued shall recognize and protect any
7 prior loan agreement, security agreement, or other agreement or instrument made for any
8 prior issue of bonds, notes, or other obligations, unless in the resolution authorizing such
9 prior issue the right is expressly reserved to the board to issue subsequent bonds, notes, or
10 other obligations on a parity with such prior issue.

11 (d) In the event that any district shall be terminated in accordance with this Act, the board
12 shall serve until December 31 of the year in which terminations shall be approved for the
13 purpose of concluding any ongoing matters and projects, but, if such cannot be concluded
14 by December 31, then the governing authority of the county shall assume the duties of the
15 administrative board and shall be expressly authorized to exercise the authority of the
16 administrative board. In the alternative, the governing authority of the county may, by
17 resolution, assume all rights and obligations of the district, either bonds or otherwise, and the
18 district shall cease to exist upon the adoption of such resolution.

19

SECTION 13.

20 Construction; applicability of Chapter 5 of Title 10 of the O.C.G.A., the 'Georgia
21 Securities Act of 1973'; notice, proceeding, publication, referendum.

22 This Act shall be liberally construed to effect the purposes hereof. The offer, sale, or
23 issuance of bonds, notes, or other obligations by a district shall not be subject to regulation
24 under Chapter 5 of Title 10 of the O.C.G.A., the 'Georgia Securities Act of 1973.' No notice,
25 proceeding, or publication except those required hereby shall be necessary to the
26 performance of any act authorized hereby, nor shall any such act be subject to referendum.

27

SECTION 14.

28

Dissolution.

29 (a) Any district activated under the provisions of this Act may be dissolved. The conditions
30 for such dissolution shall be:

31 (1) The adoption of a resolution approving of the dissolution of each community
32 improvement district by the DeKalb County Board of Commissioners, if wholly within
33 the unincorporated area of DeKalb County, and such municipalities within which the

1 district may be located, if partially within the unincorporated area of DeKalb County and
2 partially within one or more municipalities, or by the governing authority of a
3 municipality, if wholly within the incorporated area thereof; and

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

5 (A) Two-thirds of the owners of real property within the district which are subject to
6 taxes, fees, and assessments levied by the board of the district; and

7 (B) The owners of real property constituting at least 75 percent by value of all real
8 property within the district which are subject to taxes, fees, and assessments levied by
9 the board. For this purpose, value shall be determined by the most recent approved
10 county ad valorem tax digest.

11 The written consent provided for in this paragraph shall be submitted to the DeKalb
12 County tax commissioner, who shall certify whether subparagraphs (A) and (B) of this
13 paragraph have been satisfied with respect to each proposed district dissolution.

14 (b) At the official caucus of electors at which board members are to be elected in the sixth
15 year following creation of the district, and every sixth year thereafter, the question shall be
16 put to the electors present to dissolve the community improvement district. Upon an
17 affirmative vote of two-thirds of the electors present and voting, who shall represent at least
18 75 percent of the votes cast on the basis of value, the board shall send a ballot to each owner
19 of property subject to taxes, fees, and assessments levied by the board for a vote on the
20 dissolution. Upon receipt of ballots consenting to the dissolution from a majority of the
21 property owners, who shall represent at least 75 percent of the assessed value of said
22 properties, the board shall request dissolution by the governing authority and shall forward
23 said ballots to the DeKalb County tax commissioner for certification.

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

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

36 (e) When a dissolution becomes effective, the county governing authority or the governing
37 authority of a municipality, if wholly within the incorporated area thereof, shall take title to

- 1 all property previously in the ownership of the district and all taxes, fees, and assessments
2 of the district shall cease to be levied and collected.
- 3 (f) A district may be reactivated in the same manner as an original activation.
- 4 (g) No obligation of debt may be entered into beyond the term or life of the district.

5 **SECTION 15.**

6 Severability.

7 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
8 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
9 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
10 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
11 adjudged invalid or unconstitutional were not originally a part hereof. The General
12 Assembly declares that it would have passed the remaining parts of this Act if it had known
13 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

14 **SECTION 16.**

15 Effective date.

16 This Act shall become effective upon its approval by the Governor or upon its becoming law
17 without such approval.

18 **SECTION 17.**

19 General Repealer.

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