

The House Committee on Economic Development and Tourism offers the following substitute to SB 200:

A BILL TO BE ENTITLED  
AN ACT

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

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

19 **SECTION 1.**

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

## "CHAPTER 93

1

2 36-93-1.

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

5 36-93-2.

6 As used in this chapter, the term:

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

9 (2) 'Appropriate local government' means:

10 (A) Each county governing authority that has approved a resolution or ordinance  
11 authorizing it to create and regulate districts as provided under this chapter if the district  
12 or proposed district is located wholly in the unincorporated part of one or more  
13 counties;

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

17 (C) Each county governing authority and each municipal governing authority that has  
18 approved a resolution or ordinance authorizing it to create and regulate districts as  
19 provided under this chapter if the district or proposed district is located partially in the  
20 unincorporated area of one or more counties and partially within one or more  
21 municipalities.

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

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

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

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

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

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

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

- 1 (C) The cost of improvements and of insuring such improvements;
- 2 (D) Engineering, fiscal assessment, and legal expenses and charges;
- 3 (E) The cost of all labor, materials, machinery, and equipment;
- 4 (F) The cost of all lands, properties, rights, easements, and franchises acquired;
- 5 (G) Financing charges;
- 6 (H) The creation of operation and maintenance reserve funds, debt service reserve
- 7 funds, repair and replacement reserve funds, and debt service funds;
- 8 (I) Working capital;
- 9 (J) Interest charges incurred or estimated to be incurred on money borrowed prior to
- 10 and during construction and acquisition and for such reasonable period of time after
- 11 completion of construction or acquisition as the board may determine;
- 12 (K) The cost of issuance of bonds pursuant to this chapter, including advertisements,
- 13 printing, and credit enhancement and related interest rate swaps, hedges, or similar
- 14 items, whether incurred in connection with the issuance of or after the issuance of
- 15 bonds;
- 16 (L) The cost of any election held pursuant to this chapter;
- 17 (M) The discount, if any, on the sale or exchange of bonds;
- 18 (N) Administrative expenses;
- 19 (O) Such other expenses as may be necessary or incidental to the acquisition,
- 20 construction, demolition, redevelopment, or reconstruction of any project or to the
- 21 financing of any project, or to the development of any lands within a district; and
- 22 (P) Payments, contributions, and dedications required as a condition to receive any
- 23 government approval or permit necessary to accomplish any district purpose or the
- 24 exercise of any district power.
- 25 (7) 'Deed restrictions' means those covenants, conditions, and restrictions contained in
- 26 any applicable deeds, agreements, or declarations of covenants and restrictions that
- 27 govern the use and operation of real property within the district and, for such covenants,
- 28 conditions, and restrictions, there is no homeowners' association or property owners'
- 29 association having respective enforcement powers.
- 30 (8) 'District' means an infrastructure development district.
- 31 (9) 'District roads' means highways, streets, roads, alleys, sidewalks, bridges, paths,
- 32 trails, and thoroughfares of all kinds and descriptions within a district, including any
- 33 landscaping and storm drains associated therewith.
- 34 (10) 'Government member' means a member of the board named by a local government.
- 35 (11) 'Infrastructure development district' means a geographic area of development
- 36 created pursuant to this chapter and limited to the performance of those specialized
- 37 functions authorized by this chapter; the governing body of which is a board created and

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

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

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

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

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

15 (A) Protection of agricultural or forestry lands;

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

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

20 (D) Scenic protection;

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

22 (F) Storm-water utility purposes; or

23 (G) Wetlands protection.

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

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

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

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

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

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

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

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

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

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

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

3 36-93-3.

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

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

18 (c)(1) A petitioner seeking to create a district to finance such development shall file a  
19 petition requesting creation of a district with the appropriate local government. All  
20 required federal, state, or regional reviews shall be completed prior to the appropriate  
21 local government's taking final action on the approval of a district.

22 (2) In the event that a development of regional impact review is required pursuant to  
23 state law, rule, or regulation and the findings of the development of regional impact  
24 review are that the development is in the best interest of the state but that certain  
25 modifications in the development plan should be made, the petitioner and the appropriate  
26 local government shall submit to all rules and regulations pertaining to the mediation of  
27 conflicts for developments of regional impact as set forth by the Department of  
28 Community Affairs prior to the appropriate local government's taking final action on the  
29 approval of the district.

30 (3) In the event that a development of regional impact review is required pursuant to  
31 state law, rule, or regulation and the findings of the development of regional impact  
32 review are that the development is not in the best interest of the state, the petitioner and  
33 the appropriate local government shall submit to all rules and regulations pertaining to  
34 the mediation of conflicts for developments of regional impact as set forth by the  
35 Department of Community Affairs prior to the appropriate local government's taking  
36 final action on the approval of the district. Additionally, the appropriate local

1 government may in its discretion condition its approval of such a district upon the  
 2 approval by a majority of voters residing in the geographic boundaries of such local  
 3 government in an election. Such election shall be called by the local governing authority  
 4 and conducted on a date and in the manner authorized by Code Section 21-2-540. The  
 5 question on the ballot shall be as prescribed by the county election superintendent.

6 (d) The petition shall:

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

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

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

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

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

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

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

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

37 (9) Include a preliminary master plan.

1 36-93-4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (3) Name the district; and

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

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

27 (2) The powers granted to a district pursuant to paragraphs (11) and (12) of Code Section  
 28 36-93-8 may be exercised by the board upon execution of an agreement between the  
 29 board and the appropriate local government. Such agreements shall include reasonable  
 30 terms including, but not limited to, describing the services and facilities to be provided  
 31 within the district and the source of funding for such services and facilities. If such  
 32 agreements are amended, any such amendments shall be agreed to by mutual consent of  
 33 the board and the local government unit or units.

34  
 35 36-93-5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (A) Resigned from the board:

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

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

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

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

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

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

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

1 36-93-6.

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

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

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

19 36-93-7.

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

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

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

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

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

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

28 36-93-8.

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

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

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

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

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

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

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

35 (4) To adopt resolutions and orders prescribing the powers, duties, functions, and ethical  
36 requirements of the officers of the district; the conduct of the business of the district; and  
37 the maintenance of records of the district. The board may also adopt resolutions with

1 respect to any of the projects of the district and define the area to be included therein.  
2 The board may also adopt resolutions which may be necessary for the conduct of district  
3 business;

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (10) To assess and impose upon lands in the district taxes and assessments as provided  
17 by this chapter in conformity with the requirements of Code Sections 48-5-32 and  
18 48-5-32.1 that are applicable to a levying authority;

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

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

31 (B) Water supply, sewerage, and waste-water management, reclamation, and reuse or  
32 any combination thereof, and to construct and operate connecting, intercepting, or  
33 outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in,  
34 along, and under any street, alley, highway, or other public place or ways; to connect  
35 such mains, conduits, and pipelines with existing infrastructure upon entering into an  
36 agreement to do so with the owner of such existing infrastructure; and to dispose of any  
37 effluent, residue, or other byproducts of such system or sewer system. Such sewerage

1 or sewerage system shall have the same rights, duties, and obligations as publicly  
2 owned treatment works that discharge treated waste water;

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

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

8 (ii) Street lights; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (16) To exercise all of the powers necessary, convenient, incidental, or proper in  
2 connection with any of the powers, duties, or purposes authorized by this chapter,  
3 including any power granted by the laws of this state to public or private corporations  
4 which is not in conflict with this chapter or with the purposes of the district.

5 36-93-9.

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

8 36-93-10.

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

- 10 (1) Secure and maintain safe, sanitary, and adequate plumbing installations, connections,  
11 and appurtenances as subsidiary parts of its sanitary sewer system;
- 12 (2) Preserve the sanitary condition of all water controlled by the district;
- 13 (3) Prevent waste or the unauthorized use of water controlled by the district;
- 14 (4) Provide and regulate a safe and adequate freshwater distribution system; and
- 15 (5) Regulate activities on any land or any easement owned or controlled by the district;  
16 provided, however, the appropriate local government shall retain all home rule and police  
17 powers including, but not limited to, code enforcement, regulatory authority, zoning  
18 powers, and land use control powers under the laws of this state; and provided, further,  
19 with the exception of districts performing redevelopment activities inside municipalities,  
20 that the district shall dedicate a minimum of 20 percent of its area to permanent open  
21 space.

22 36-93-11.

23 (a) In addition to the other powers provided for in this chapter and not in limitation  
24 thereof, the district shall have the power to issue from time to time notes in anticipation of  
25 bonds and to renew from time to time any such notes by the issuance of new notes, whether  
26 the notes to be renewed have or have not matured. The district may issue such bond  
27 anticipation notes only to provide funds which otherwise would be provided by the  
28 issuance of the bonds. Bond anticipation notes may be authorized, sold, executed, and  
29 delivered in the same manner as bonds. As with its bonds, the district may sell notes at  
30 public or private sale. Any resolution or resolutions authorizing notes of the district or any  
31 issue thereof may contain any provisions which the district is authorized to include in any  
32 resolution or resolutions authorizing bonds of the district or any issue thereof and which  
33 the district is authorized to include in any bonds. Bond anticipation notes shall not be

1 issued in an amount exceeding the par value of the bonds in anticipation of which they are  
2 to be issued.

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

12 36-93-12.

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

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

33 (c) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such  
34 time or times not more than 40 years from their respective dates, shall bear interest at such  
35 rate or rates which may be fixed or may fluctuate or otherwise change from time to time,  
36 may be subject to interest rate hedge arrangements, shall be subject to redemption on such

1 terms, and shall contain such other terms, provisions, covenants, assignments, and  
2 conditions as the resolution authorizing the issuance of such bonds, notes, or other  
3 obligations may permit or provide. The resolution authorizing the issuance of the bonds  
4 may delegate to such officers charged with the responsibility of issuing such bonds the  
5 authority to set the final terms, conditions, and details thereof, including the interest rate  
6 or rates and maturity, within reasonable parameters established and set forth in such  
7 resolution.

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

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

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

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

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

1 doing so the effective interest cost resulting therefrom would exceed the maximum per  
2 annum interest rate specified in such notices and in the petition and complaint.

3 (i) The terms 'cost' and 'project,' when used in the phrases 'cost of the project' and 'cost of  
4 any project' in bond resolutions of the board; in bonds, notes, or other obligations of the  
5 district; or in notices of proceedings to validate such bonds, notes, or other obligations of  
6 the district, shall have the same meanings as provided in paragraphs (6) and (18) of Code  
7 Section 36-93-2.

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

12 (k) All bonds issued under this chapter shall be validated pursuant to the procedures set  
13 forth in Chapter 82 of this title.

14 36-93-13.

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

1 36-93-14.

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

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

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

1 appropriate local government in which the property is located using the methods and  
2 procedures as designated by the tax authority of the appropriate local government.  
3 Delinquent taxes and assessments shall bear the same interest and penalties as ad valorem  
4 taxes of the appropriate local government in which the property is located and may be  
5 enforced and collected in the same manner. The appropriate local government in which  
6 the property is located may retain a fee to reimburse the actual increased costs, if any, of  
7 preparing and mailing notices to collect such taxes and assessments for the board. The  
8 remaining proceeds shall be transmitted by the appropriate local government to the board  
9 and shall be expended by the board only for the purposes authorized in this chapter.

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

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

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

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

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

36 (i) Before selling any property to the general public, the board shall determine the  
37 projected initial costs to be repaid by landowners through assessments. These initial costs

1 shall be apportioned among the parcels to be sold to the general public and the amount of  
2 such apportionment shall be disclosed as required by this chapter. The board shall  
3 calculate the amount of initial costs and any costs for additional projects, if applicable, for  
4 which each parcel is to be responsible which costs shall be apportioned to each parcel at  
5 a pro rata share based on acreage and make that amount available to the public. Sellers of  
6 land within the district shall refer to this calculation for purposes of the disclosures required  
7 in this chapter.

8 36-93-15.

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

21 36-93-16.

22 (a) The district has the right to:

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

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

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

34 (c) In any sale of land, the district may certify to the tax commissioner, tax collector, or  
35 other public official holding such sale the amount of taxes due to the district upon the lands

1 sought to be sold; and the district shall share in the disbursement of the sales proceeds in  
2 accordance with the provisions of this chapter and other laws of the state.

3 36-93-17.

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

11 36-93-18.

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

16 36-93-19.

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

29 36-93-20.

30 The board or any aggrieved person may have recourse to such remedies in law and at  
31 equity as may be necessary to ensure compliance with the provisions of this chapter,  
32 including injunctive relief to enjoin or restrain any person from violating the provisions of  
33 this chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under

1 this chapter. In case any building or structure is erected, constructed, reconstructed,  
2 altered, repaired, converted, or maintained, or any building, structure, land, or water is  
3 used, in violation of this chapter or of any code, order, resolution, or other regulation made  
4 by the board under authority conferred by this chapter or under law, the board, any  
5 landowner, any appropriate local government, or any citizen residing in the district may  
6 institute any appropriate action or proceeding to prevent such unlawful erection,  
7 construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain,  
8 correct, or prevent such violation; to prevent the occupancy of such building, structure,  
9 land, or water; and to prevent any illegal act, conduct, business, or use in or about such  
10 premises, land, or water.

11 36-93-21.

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

24 36-93-22.

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

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

1 and the designation of the future general distribution, location, and extent of public and  
2 private uses of land proposed for the area by the future land use element of the adopted  
3 local government comprehensive plan; and

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

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

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

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

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

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

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

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

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

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

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

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

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

15 36-93-23.

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

25 (b) Subsequent to the establishment of a district under this chapter, each contract for the  
26 sale of a parcel of real property, each contract for the sale of a residential unit, and each  
27 lease agreement for the rental of a residential unit within the district shall include,  
28 immediately prior to the space reserved in the contract for the signature of the purchaser,  
29 the following disclosure statement in boldface and conspicuous type which is larger than  
30 the type in the remaining text of the contract: **THE PROPERTY YOU ARE ABOUT TO  
31 PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE  
32 DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE  
33 DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS,  
34 OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. CERTAIN OF  
35 THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT  
36 AND THE COSTS OF ADDITIONAL PROJECTS. THESE TAXES AND**

1 ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT  
 2 EXCEED \$\_\_\_\_\_ PER YEAR. ADDITIONAL TAXES AND ASSESSMENTS MAY  
 3 PAY THE OPERATION AND MAINTENANCE OF DISTRICT PROJECTS, AND  
 4 SUCH COSTS ARE CAPPED BY LAW. DISTRICT TAXES AND ASSESSMENTS  
 5 ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES  
 6 AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED  
 7 FOR BY LAW. THIS DISCLOSURE AND THE CONTRACT FOR SALE IN WHICH  
 8 IT APPEARS SHALL BE ENFORCEABLE IN ANY COURT OF COMPETENT  
 9 JURISDICTION.'

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

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

21 36-93-24.

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

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

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

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

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

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

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

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

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

33 'FURTHERMORE, THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE  
 34 IS WITHIN A DESIGNATED AREA OF THE (Name of District) INFRASTRUCTURE  
 35 DEVELOPMENT DISTRICT AND YOUR LAND WILL BE SUBJECT TO HIGHER  
 36 TAXES THAN OTHER LAND WITHIN THE COUNTY. YOUR RATE OF TAXES

1 WILL BE HIGHER BY \$\_\_\_\_\_ ON EACH \$1,000.00 OF ASSESSED VALUATION  
2 THAN LAND NOT WITHIN THE DESIGNATED AREA.'

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

8 36-93-25.

9 (a) A service delivery provider that is the designated provider of a service for the area in  
10 which a district is to be located pursuant to a service delivery strategy under Article 2 of  
11 Chapter 70 of this title shall receive a copy of the petition to create a district that is filed  
12 with the appropriate local government within five days of submission by the petitioner to  
13 the appropriate local government. The petitioner shall address and provide such copy to  
14 the mayor, sole commissioner, county commission chair, or director of the service delivery  
15 provider, as applicable, by statutory overnight delivery. The service delivery provider shall  
16 have the right of first refusal to provide the service to the district. Such right of first refusal  
17 shall be exercised within 30 days of receipt of the petition unless such time is extended by  
18 agreement between the appropriate local government, the service delivery provider, and  
19 the petitioner, and such decision shall be communicated to the appropriate local  
20 government no fewer than ten days before its public hearing on the petition. If the service  
21 delivery provider exercises its right to serve the district, it shall enter into a contract with  
22 the district, such contract to include the requirement that the service delivery provider  
23 provide its service within the district in conformity with a mutually agreed upon timetable  
24 of service. A service delivery provider's requirement that the infrastructure meet the  
25 existing standards used within the service area shall not constitute a refusal to provide  
26 service to the district. Likewise, a service delivery provider's requirement that the district  
27 construct, or pay the costs of construction of, any infrastructure inside or outside of the  
28 district necessary to provide service to the district shall not constitute a refusal to provide  
29 such service. Such construction or costs of construction may include any infrastructure  
30 required to connect district infrastructure to the service delivery provider's existing  
31 infrastructure and the costs of any modification, improvement, or construction of  
32 infrastructure necessary to provide service to the district. The district shall only be required  
33 to construct or pay for construction of infrastructure project costs that are proportionately  
34 associated with the infrastructure necessary to serve the anticipated usage within the  
35 district. Finally, a service delivery provider's delay in providing service due to a lack of

1 permit capacity or due to documented intended use of existing permit capacity shall not  
2 constitute a refusal to provide service to the district.

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

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

13 36-93-26.

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

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

19 **SECTION 2.**

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

24 "(a) Any person who owns or operates a facility of any type or who desires to erect,  
25 modify, alter, or commence operation of a facility of any type which results or will result  
26 in the discharge of pollutants from a point source into the waters of the state shall obtain  
27 from the director a permit to make such discharge. Any person desiring to erect, modify,  
28 alter, or commence operation of a facility which will result in such discharge but which is  
29 not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the  
30 discharge of same. Any person who is operating a facility which results in such discharge  
31 as of July 1, 1974, may continue to make such discharge pending final action by the  
32 director on the application for such discharge permit, provided that such application has  
33 been filed with the director by September 29, 1974; and provided, further, that such  
34 discharge does not present an immediate health hazard to the public. The director, under  
35 the conditions he or she prescribes, may require the submission of such plans,

1 specifications, and other information as he or she deems relevant in connection with the  
 2 issuance of such permits. The director may, after public notice and opportunity for public  
 3 hearing, issue a permit which authorizes the person to make such discharge, upon condition  
 4 that such discharge meets or will meet, pursuant to any schedule of compliance included  
 5 in such permit, all water quality standards, effluent limitations, and all other requirements  
 6 established pursuant to this article. The director shall give preference to existing permits  
 7 or modification of existing permits in conformity with existing service delivery strategy  
 8 agreements required in Chapter 70 of Title 36."

### 9 SECTION 3.

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

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

### 21 SECTION 4.

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

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

### 32 SECTION 5.

33 In the event any section, subsection, sentence, clause, or phrase of this Act is declared or  
 34 adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect

1 the remaining portions of this Act, which shall remain of full force and effect as if such  
2 portion so declared or adjudged invalid or unconstitutional were not originally a part of this  
3 Act. The General Assembly declares that it would have enacted the remaining parts of this  
4 Act if it had known that such portion hereof would be declared or adjudged invalid or  
5 unconstitutional.

6 **SECTION 6.**

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

13

14

**SECTION 7.**

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