

Senate Bill 200

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

AS PASSED

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 fees and assessments;
 7 to provide for the debt of infrastructure development districts; to provide for bonds, notes,
 8 and other obligations of infrastructure development districts; to provide for the form of
 9 bonds; to provide for consolidation, termination, or dissolution of infrastructure development
 10 districts; to provide for notice of the creation of the district; to amend Chapter 5 of Title 12
 11 of the Official Code of Georgia Annotated, relating to water resources, so as to change
 12 certain provisions regarding permits for discharging pollutants into waters; to change certain
 13 provisions regarding permits for surface-water withdrawal, diversion, or impoundment; to
 14 change certain provisions regarding permits for withdrawing, obtaining, or using ground
 15 water; to provide for related matters; to provide a contingent effective date; to provide for
 16 automatic repeal under certain circumstances; to repeal conflicting laws; and for other
 17 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) 'Assessment' and 'assessments' means:

28 (A) District project assessments assessed pursuant to subsection (a) of Code Section
29 36-93-14;

30 (B) Maintenance and operation special assessments assessed pursuant to subsection (b)
31 of Code Section 36-93-14; or

32 (C) Any assessment assessed pursuant to subsections (a) and (b) of Code Section
33 36-93-14.

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

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

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

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

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

8 (C) The cost of improvements and of insuring such improvements;

9 (D) Engineering, fiscal assessment, and legal expenses and charges;

10 (E) The cost of all labor, materials, machinery, and equipment;

11 (F) The cost of all lands, properties, rights, easements, and franchises acquired;

12 (G) Financing charges;

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

15 (I) Working capital;

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

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

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

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

25 (N) Administrative expenses;

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

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

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

37 (9) 'District' means an infrastructure development district.

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

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

5 (12) 'Infrastructure development district' means a geographic area of development
6 created pursuant to this chapter and limited to the performance of those specialized
7 functions authorized by this chapter; the governing body of which is a board created and
8 authorized to function specifically as prescribed in this chapter for the financing of
9 projects and the formation, powers, operation, duration, accountability, requirements for
10 disclosure, and termination of which are as required by this chapter. An infrastructure
11 development district shall not be considered a political subdivision.

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

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

18 (15) 'Local governing authority' means any county or municipal corporation of the State
19 of Georgia.

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

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

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

26 (C) Scenic protection; or

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

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

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

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

35 (20) 'Qualified electors' means landowners within the district who, at the time the district
36 was created, were not shown as a landowner for one or more parcels of real estate within

1 the district on the ad valorem tax records of the county or counties that have jurisdiction
2 over the property included in the district.

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

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

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

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

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

32 (26) 'Water system' means a system for the provision of piped water for human
33 consumption within a district. Such system shall have at least 15 service connections or
34 regularly serve at least 25 individuals. Such term includes, but is not limited to, any
35 collection, treatment, storage, and distribution facilities under the control of the operator
36 of such system and used primarily in connection with such system and any collection or
37 pretreatment storage facilities not under such control which are used primarily in

1 connection with such system. The term 'water system' includes all real and personal
2 property and any interest in the property, rights, easements, and franchises of any nature
3 relating to any such water system necessary or convenient for the acquisition,
4 construction, reconstruction, operation, or maintenance of the water system. Such water
5 system shall be subject to the provisions of Part 5 of Article 3 of Chapter 5 of Title 12,
6 the 'Georgia Safe Water Drinking Act of 1977.'

7 36-93-3.

8 (a) A local governing authority may exercise its powers granted by this chapter after
9 holding a public hearing for the purpose of discussing the use of districts as a tool for
10 financing services and infrastructure and approving a resolution or ordinance that
11 authorizes the local government to create and regulate districts as provided under this
12 chapter. Such local governing authority shall hold a minimum of two public hearings for
13 discussion purposes; however, the vote to approve a resolution or ordinance authorizing
14 the local governing authority to create and regulate districts shall be held no more than 90
15 days following the last public hearing held to discuss the use of districts as a financing tool.

16 (b) Prior to requesting the creation of a district, the petitioner shall submit the proposed
17 development plan to the appropriate local government for consideration. Such petitioner
18 shall complete all required federal, state, or regional reviews including, but not limited to,
19 development of regional impact reviews pursuant to paragraph (3) of subsection (b) of
20 Code Section 50-8-7.1 and Code Section 50-32-14 with respect to such proposed
21 development plan. The department and regional development center of jurisdiction shall
22 consider the comments of any contiguous regional development center in formulating its
23 findings in the development of regional impact review.

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

29 (2) A petitioner shall submit to the local governing authority an application fee to be
30 established by the appropriate local government not to exceed \$5,000.00 per 1,000 acres,
31 not to exceed \$15,000.00 regardless of acreage, to defray administrative costs associated
32 with the petition, including, but not limited to, legal fees and any other professional fees
33 incurred by the local governing authority.

34 (3) In the event that a development of regional impact review is required pursuant to
35 state law, rule, or regulation and the findings of the development of regional impact
36 review are that the development is in the best interest of the state but that certain

1 modifications in the development plan should be made, the petitioner and the appropriate
 2 local government shall submit to all rules and regulations pertaining to the mediation of
 3 conflicts for developments of regional impact as set forth by the Department of
 4 Community Affairs prior to the appropriate local government's taking final action on the
 5 approval of the district.

6 (4) In the event the findings of the development of regional impact review are that the
 7 development is not in the best interest of the state, the petitioner and the appropriate local
 8 government shall submit to all rules and regulations pertaining to the mediation of
 9 conflicts for developments of regional impact as set forth by the Department of
 10 Community Affairs prior to the appropriate local government's taking final action on the
 11 approval of the district. Additionally, the appropriate local government may in its
 12 discretion condition its approval of such a district upon the approval by a majority of
 13 voters residing in the geographic boundaries of such local government in an election
 14 through the adoption of an appropriate resolution. Upon receipt of such resolution by the
 15 election superintendent, such election shall be called by the election superintendent of
 16 the local governing authority and conducted on a date and in the manner authorized by
 17 Code Section 21-2-540. The question on the ballot shall be as prescribed in the resolution
 18 adopted by the governing authority of the local government.

19 (d) The petition shall:

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

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

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

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

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

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

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

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

14 (9) Include a preliminary master plan.

15 36-93-4.

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

19 (b) A public hearing on the petition shall be conducted by the appropriate local
20 government no sooner than 60 days nor later than 120 days following the submission of a
21 petition unless reasonably delayed for reasons related to the appropriate local government's
22 completing all necessary federal, state, or regional reviews including, but not limited to,
23 development of regional impact reviews pursuant to paragraph (3) of subsection (b) of
24 Code Section 50-8-7.1 and Code Section 50-32-14 or due to circumstances beyond the
25 control of the appropriate local government. The hearing shall include oral and written
26 comments on the petition pertinent to the proposed district, including the factors specified
27 in subsection (c) of this Code section. The hearing shall begin after 6:00 P.M. but no later
28 than 7:00 P.M. at an accessible location in the jurisdiction of each appropriate local
29 government. The petitioner shall cause a notice of the hearing to be published in the legal
30 organ of the county or municipality wherein the district's land lies at least once a week for
31 the four successive weeks immediately prior to the hearing. Such notice shall not be placed
32 in the area reserved for legal advertisements. The notice shall give the time and place for
33 the hearing, a description of the area to be included in the district, and any other relevant
34 information which the appropriate local government may require. All affected local
35 governments and the general public shall be given an opportunity to appear at the hearing
36 and present oral or written comments on the petition.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (3) Name the district; and

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

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

6 (2) The powers granted to a district pursuant to paragraphs (11) and (12) of Code Section
7 36-93-8 may be exercised by the board upon execution of an agreement between the
8 board and the appropriate local government. Such agreements shall include reasonable
9 terms including, but not limited to, describing the services and facilities to be provided
10 within the district and the source of funding for such services and facilities. If such
11 agreements are amended the amendments must be agreed to by mutual consent of the
12 board and the local government unit or units.

13
14 36-93-5.

15 (a) The powers granted to a district pursuant to this chapter shall be exercised by the
16 board. Except as provided in this Code section, the board shall consist of at least five
17 members and member shall hold office for a term of four years and until a successor is
18 appointed or elected and qualified. All members of the board must be at least 18 years old,
19 a resident of this state, and a citizen of the United States. The provisions of Code Section
20 45-10-3 shall apply to all members of the board who are elected pursuant to this Code
21 section and their successors. As provided in this Code section, the board members'
22 successors shall also be required to be residents of the district.

23 (b) Unless the membership of the board is expanded as provided in this Code section, the
24 initial board named under the resolution or ordinance establishing the district pursuant to
25 Code Section 36-93-4 shall be composed of five members named by the petitioner and one
26 member who shall be appointed by each appropriate local government that issues a
27 resolution or ordinance creating the district at such local government's discretion. In the
28 event a district is created by a resolution or ordinance by more than one local government,
29 each appropriate local government shall appoint one member to the board and the petitioner
30 may appoint one additional petitioner member per additional government member. An
31 appropriate local government and such government's appointee shall have immunity from
32 actions for money damages with respect to any act or omission by the district board and
33 with respect to any act or omission by such government's appointee as a member of the
34 district board or as an employee, appointee, or official of the appropriate local government.
35 An initial board member shall serve until the board, in the case of petitioner members, or
36 the appropriate local government, in the case of government members, replaces the

1 member or the member is replaced by an election by the qualified electors pursuant to
2 subsection (c) of this Code section.

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

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

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

12 (C) The third petitioner member shall stand for election within six months of the sale
13 to the general public of land representing 70 percent of the geographic area within the
14 boundaries of the district; and

15 (D) All remaining petitioner members shall stand for election within six months of the
16 sale to the general public of land representing 75 percent of the geographic area within
17 the boundaries of the district or within six years after the effective date of the resolution
18 or ordinance establishing the district, whichever is sooner.

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

28 (3) Only qualified electors shall vote in any district election. Each qualified elector shall
29 be entitled to vote commensurate with his or her ownership interest in the development.
30 At a district election, each qualified elector shall be entitled to cast one vote per acre of
31 land owned by him or her, located within the district, for each member to be elected;
32 provided, however, that a qualified elector may not cast a vote representing any land
33 currently used or identified for future use of district facilities, infrastructure, or other
34 district specific purposes including common areas. No qualified elector may cast votes
35 representing more than 15 percent of the available votes. A qualified elector may vote
36 in person or by a properly executed written proxy. Each proxy must be signed by one of
37 the landowners of the property for which the vote is cast and must contain the typed or

1 printed name of the individual who signed the proxy; the street address, legal description
 2 of the property, or tax parcel identification number; and the number of authorized votes.
 3 If the proxy authorizes more than one vote, each property must be listed and the number
 4 of acres of each property must be included. The signature on a proxy need not be
 5 notarized. A fraction of an acre shall be treated as one acre, entitling the qualified elector
 6 to one vote with respect thereto. In the event that an acre or a fraction of an acre is jointly
 7 owned, only one such owner shall be entitled to vote as a qualified elector. Nominees for
 8 the board are elected by a majority of votes cast in accordance with this paragraph.

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

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

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

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

25 (A) Resigned from the board:

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

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

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

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

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

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

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

16 36-93-6.

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

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

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

1 36-93-7.

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

3 (b) At least 60 days prior to the adoption of the annual budget for the district, the treasurer
4 shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for
5 board approval. The proposed budget shall include at the direction of the board an estimate
6 of all necessary expenditures of the district for the ensuing fiscal year and an estimate of
7 income of the district from assessments provided in this chapter. The board shall consider
8 the proposed budget item by item and may either approve the budget as proposed by the
9 treasurer or modify the same in part or in whole. The board shall indicate its approval of
10 the proposed budget by resolution that shall provide for a hearing on the proposed budget
11 as approved. Such hearing shall begin no earlier than 6:00 P.M. nor later than 7:00 P.M.
12 and shall be limited only to consideration of the proposed budget. Notice of the hearing
13 on the proposed budget shall be published in the legal organ of the county in which the
14 district is located once a week for two consecutive weeks immediately preceding the date
15 of the hearing. The notice shall further contain a designation of the date, time, and place
16 of the public hearing and shall not be placed in the section reserved for legal
17 advertisements. The board shall make copies of the proposed budget available during
18 business hours at the district office for no less than two weeks prior to the hearing. At the
19 time and place designated in the notice, the board shall hear all comments on and
20 objections to the budget as proposed and may make such changes as the board deems
21 necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt
22 the budget as finally approved by the board. The budget for the next fiscal year shall be
23 adopted no more than three months and no less than one month before the end of the
24 district's fiscal year.

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

34 (d) The district shall provide for the full disclosure of information relating to the public
35 and private financing and maintenance of improvements to real property undertaken by the
36 district. Such information shall be made available to all existing residents and to all
37 prospective residents of the district. The district shall furnish each developer of a

1 residential development within the district with sufficient copies of that information to
2 provide each prospective initial purchaser of property in that development with a copy, and
3 any developer of a residential development within the district, when required by law to
4 provide a public offering statement, shall include a copy of such information relating to the
5 public financing and maintenance of improvements in the public offering statement.

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

9 36-93-8.

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

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

16 (2) To make and execute contracts and other instruments necessary or convenient to the
17 exercise of its powers. All public works contracts shall be made in accordance with the
18 provisions of Chapter 91 of this title. All contracts let by the board for any goods,
19 supplies, or materials to be purchased exceeding \$100,000.00 shall require a notice of
20 bids be advertised twice in the legal organ of the county allowing a reasonable amount
21 of time for responsive bids to be submitted and shall be subject to this Code section. The
22 bid of the lowest responsive and responsible bidder for contracts for purchase of any
23 goods, supplies, or materials shall be accepted unless all bids are rejected because the
24 bids are too high or the board determines it is in the best interests of the district to reject
25 all bids. The board may require such bidders to furnish bond with a responsible surety
26 to be approved by the board. Contracts for the operation, maintenance, and management
27 of district projects shall contain the following provisions:

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

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

1 (3) To borrow money and issue bonds, bond anticipation notes, certificates, warrants,
2 notes, or other evidence of indebtedness for initial infrastructure outlay as defined in the
3 approved master plan petition. The district may incur debt without regard to the
4 requirements of Article IX, Section V of the Constitution or any other provision of law
5 prohibiting or restricting the borrowing of money or the creation of debt by political
6 subdivisions of this state. Debt of the district may be backed by the full faith and credit
7 of the district but shall not be an obligation of this state, the local government or
8 governments that approved the district, or any local government or other unit of
9 government of this state;

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

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

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

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

26 (8)(A) To raise, by user charges or fees authorized by resolution of the board, amounts
27 of money which are necessary and reasonable for the conduct of district activities as
28 enumerated in the initial master plan petition and upkeep of district facilities and to
29 enforce their receipt and collection in the manner prescribed by resolution not
30 inconsistent with law.

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

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

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

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

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

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

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

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

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

27 (10) To impose upon lands in the district assessments as provided by this chapter;

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

- 1 (A) Water management and control facilities for the lands within the district and to
2 connect some or any of such facilities with roads and bridges;
- 3 (B) Water supply, sewerage, and waste-water management, reclamation, and reuse or
4 any combination thereof, and to construct and operate connecting, intercepting, or
5 outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in,
6 along, and under any street, alley, highway, or other public place or ways; to connect
7 such mains, conduits, and pipelines with existing infrastructure upon entering into an
8 agreement to do so with the owner of such existing infrastructure; and to dispose of any
9 effluent, residue, or other byproducts of such system or sewer system. Such sewerage
10 or sewerage system shall have the same rights, duties, and obligations as publicly
11 owned treatment works that discharge treated waste water;
- 12 (C) Bridges or culverts that may be needed across any drain, ditch, canal, floodway,
13 holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over
14 levees and embankments; and to construct any and all of such works and improvements
15 across, through, or over any public right of way, highway, grade, fill, or cut;
- 16 (D)(i) District roads, sidewalks, bicycle paths, and pedestrian facilities;
17 (ii) Street lights; and
18 (iii) Buses, trolleys, trams, transit shelters, ridesharing facilities and services, parking
19 improvements, and related signage;
- 20 (E) Investigation and remediation costs associated with the cleanup of actual or
21 perceived environmental contamination within the district under the supervision or
22 direction of a competent governmental authority, unless the expenditure of investigation
23 and remediation costs benefit any person who is a landowner within the district and
24 who caused or contributed to the contamination;
- 25 (F) Conservation areas, mitigation areas, and wildlife habitat, including the
26 maintenance of any plant or animal species, and any related interest in real or personal
27 property, including green spaces and common areas;
- 28 (G) Security including, but not limited to, guardhouses, fences and gates, electronic
29 intrusion detection systems, and patrol cars, when authorized by proper governmental
30 agencies, except that the district may not exercise any police power, but may contract
31 with the appropriate local government for an increased level of such services within the
32 district boundaries;
- 33 (H) Indoor and outdoor recreational, cultural, and educational uses;
- 34 (I) Natural gas distribution facilities to be connected with and used by an existing
35 municipal natural gas system to provide natural gas to the district; and
- 36 (J) Any other project within or outside the boundaries of a district consistent with the
37 local government's comprehensive plan;

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

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

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

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

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

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

18 (14)(A) To apply certain limited deed restrictions pertaining to the use and operation
 19 of real property within the district. The district may apply all or certain portions of the
 20 deed restrictions that:

21 (i) Relate to limitations or prohibitions that apply only to external structures and are
 22 deemed by the district to be generally beneficial for the district's landowners and for
 23 which application by the district is appropriate, as determined by the district's board
 24 in concert with the initial master plan petition; provided, however, that such deed
 25 restrictions shall not have retroactive application; or

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

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

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

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

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

36 (C) Within 60 days after such deed restrictions take effect, the district shall cause to
 37 be recorded in the property records in the county in which the district is located the

1 deed restrictions, stating generally what deed restrictions were adopted and where a
 2 copy of the deed restrictions may be obtained. Districts may impose fines for violations
 3 of such deed restrictions and enforce such deed restrictions and fines through injunctive
 4 relief;

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

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

12 36-93-9.

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

15 36-93-10.

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

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

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

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

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

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

29 36-93-11.

30 (a) In addition to the other powers provided for in this chapter and not in limitation
 31 thereof, the district shall have the power to issue from time to time notes in anticipation of
 32 bonds and to renew from time to time any such notes by the issuance of new notes, whether
 33 the notes to be renewed have or have not matured. The district may issue such bond
 34 anticipation notes only to provide funds which otherwise would be provided by the

1 issuance of the bonds. Bond anticipation notes may be authorized, sold, executed, and
2 delivered in the same manner as bonds. As with its bonds, the district may sell notes at
3 public or private sale. Any resolution or resolutions authorizing notes of the district or any
4 issue thereof may contain any provisions which the district is authorized to include in any
5 resolution or resolutions authorizing bonds of the district or any issue thereof and which
6 the district is authorized to include in any bonds. Bond anticipation notes shall not be
7 issued in an amount exceeding the par value of the bonds in anticipation of which they are
8 to be issued.

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

18 36-93-12.

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

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

1 from such debt for each landowner within the district shall be limited to the amount
2 identified in the calculation provided in subsection (i) of Code Section 36-93-14.

3 (c) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such
4 time or times not more than 30 years from their respective dates, shall bear interest at such
5 rate or rates which may be fixed or may fluctuate or otherwise change from time to time,
6 may be subject to interest rate hedge arrangements, shall be subject to redemption on such
7 terms, and shall contain such other terms, provisions, covenants, assignments, and
8 conditions as the resolution authorizing the issuance of such bonds, notes, or other
9 obligations may permit or provide. The resolution authorizing the issuance of the bonds
10 may delegate to such officers charged with the responsibility of issuing such bonds the
11 authority to set the final terms, conditions, and details thereof, including the interest rate
12 or rates and maturity, within reasonable parameters established and set forth in such
13 resolution.

14 (d) The board is authorized to provide by resolution for the issuance of bonds of the board
15 for the purpose of funding or refunding any bonds issued under the provisions of this
16 chapter and then outstanding, together with accrued interest thereon and premium, if any.
17 The issuance of such funding or refunding bonds, the maturities and all other details
18 thereof, the rights of the holders thereof, and the duties of the board in respect to the same
19 shall be governed by the provisions of this chapter insofar as the same may be applicable.

20 (e) The local governing authority may require performance bonds related to infrastructure
21 construction.

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

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

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

34 (i) In lieu of specifying the rate or rates of interest which such bonds are to bear and the
35 principal amount and maturities of such bonds, the notice to the district attorney; the notice
36 to the public of the time, place, and date of the validation hearing; and the petition and
37 complaint for validation shall state that the bonds when issued will bear interest at a rate

1 not exceeding a maximum per annum rate of interest which may be fixed or may fluctuate
2 or otherwise change from time to time, and that the principal amount will not exceed an
3 amount specified in and the final maturity date will not be later than a date specified in
4 such notices, petition, and complaint or may state that, in the event the bonds are to bear
5 different rates of interest for different maturity dates, none of such rates will exceed the
6 maximum rate so specified which may be fixed or may fluctuate or otherwise change from
7 time to time; provided, however, that nothing in this Code section shall be construed as
8 prohibiting or restricting the right of the board to sell such bonds at a discount, even if in
9 doing so the effective interest cost resulting therefrom would exceed the maximum per
10 annum interest rate specified in such notices and in the petition and complaint.

11 (j) The terms 'cost' and 'project,' when used in the phrases 'cost of the project' and 'cost of
12 any project' in bond resolutions of the board; in bonds, notes, or other obligations of the
13 district; or in notices of proceedings to validate such bonds, notes, or other obligations of
14 the district, shall have the same meanings as provided in paragraphs (7) and (17) of Code
15 Section 36-93-2.

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

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

22 36-93-13.

23 Any issue of bonds may be secured by a trust agreement by and between the district and
24 a corporate trustee or trustees, which may be any trust company or bank having the powers
25 of a trust company inside or outside the state. The resolution authorizing the issuance of
26 the bonds or trust agreement may provide for the pledge of the revenues to be received
27 from any projects of the district and may contain such provisions for protecting and
28 enforcing the rights and remedies of the bondholders as the board may approve including,
29 without limitation, covenants setting forth the duties of the district in relation to: the
30 acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and
31 insurance of any projects; the fixing and revising of the rates, fees, and charges; and the
32 custody, safeguarding, and application of all moneys and for the employment of consulting
33 engineers in connection with such acquisition, construction, reconstruction, improvement,
34 maintenance, repair, or operation. It shall be lawful for any bank or trust company within
35 or outside the state which may act as a depository of the proceeds of bonds or of revenues
36 to furnish such indemnifying bonds or to pledge such securities as may be required by the

1 district. The resolution authorizing the issuance of the bonds or trust agreement may set
2 forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict
3 the individual right of action by bondholders. The rights and remedies of bondholders shall
4 be subject to the limitation specified in subsection (a) of Code Section 36-93-12. The
5 board may provide for the payment of proceeds of the sale of the bonds and the revenues
6 of any project to such officer, board, or depository as it may designate for the custody
7 thereof and may provide for the method of disbursement thereof with such safeguards and
8 restrictions as it may determine. All expenses incurred in carrying out the provisions of
9 such resolution or trust agreement may be treated as part of the cost of the project to which
10 such trust agreement pertains.

11 36-93-14.

12 (a) The board shall have the power to impose and collect a district project assessment on
13 all other taxable real property in the district to construct and maintain projects approved by
14 the appropriate local government and to pay the costs thereof; to pay the principal of, and
15 interest on, any bonds of the district; and to provide for any sinking or other funds
16 established in connection with any such bonds. Such district project assessment shall be
17 capped at the amount determined by the board pursuant to subsection (i) of this Code
18 section. The district project assessment shall be in addition to all other assessments
19 provided for by law.

20 (b) The board may impose and collect a maintenance and operation special assessment to
21 maintain, operate, or preserve the facilities and projects of the district and to pay the costs
22 thereof; to pay the principal of, and interest on, any obligations of the district; and to
23 provide for any sinking or other funds established in connection with any such obligations.
24 Maintenance and operation special assessments shall be a lien on the property against
25 which imposed until paid and shall be enforceable in like manner as taxes in the
26 appropriate local government. The amount of the maintenance and operation special
27 assessments shall be determined and assessed uniformly by the board upon all otherwise
28 taxable real property within the district and shall be apportioned among the benefited lands
29 in proportion to the benefits received by each tract of land.

30 (c) Any maintenance and operation special assessment imposed pursuant to this Code
31 section shall be capped and disclosed to purchasers by the board. Except for specially
32 designated property as provided for in Code Section 36-93-24, the assessments imposed
33 by the board upon the properties shall be equitably apportioned among the properties
34 according to the need for infrastructure created by the degree of density of development
35 within the district and not for the purpose of providing infrastructure that would primarily
36 benefit the county or municipality as a whole. Any assessment so imposed shall be

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

10 (d) The board shall impose the assessments provided for in this Code section between
11 January 1 and August 1 of each calendar year and shall notify in writing the appropriate tax
12 authority of the appropriate local government in which the property is located by a date to
13 be determined by the appropriate local government and the appropriate local government
14 shall include the assessment on its regular ad valorem tax bills. In the event assessments
15 are imposed at an amount based on property valuation, the board shall use the assessed
16 values of property contained in the tax digest approved by the county to determine the
17 amount applicable to each property assessment. The district shall base the district project
18 assessments owed by each parcel of land as calculated using the formula provided in
19 subsection (i) of this Code section.

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

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

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

34 (h) With the exception of maintenance and operation special assessments, district
35 assessments may be made payable in no more than 30 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 (j) In the case of a county which is by law or constitutional amendment subject to a
 9 maximum allowable mill rate for taxes levied by such county, and only in the case of such
 10 a county, assessments imposed under this chapter by a district created by such county shall
 11 be considered assessments imposed by such county for purposes of the maximum
 12 allowable mill rate. No district created by such a county may impose any assessments
 13 under this chapter unless the county governing authority has certified in writing to the
 14 district that the district assessments will not result in a violation of the maximum allowable
 15 mill rate applicable to the county.

16 36-93-15.

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

29 36-93-16.

30 (a) The district has the right to:

- 31 (1) Pay any delinquent state, county, district, municipal, or other tax or assessment upon
- 32 lands located wholly or partially within the boundaries of the district; and
- 33 (2) Redeem or purchase any tax sales certificates issued or sold on account of any state,
- 34 county, district, municipal, or other taxes or assessments upon lands located wholly or
- 35 partially within the boundaries of the district.

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

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

11 36-93-17.

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

19 36-93-18.

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

24 36-93-19.

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

1 may also enforce payment of delinquent fees, rentals, or other charges by any other lawful
2 method of enforcement.

3 36-93-20.

4 The board or any aggrieved person may have recourse to such remedies in law and at
5 equity as may be necessary to ensure compliance with the provisions of this chapter,
6 including injunctive relief to enjoin or restrain any person from violating the provisions of
7 this chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under
8 this chapter. In case any building or structure is erected, constructed, reconstructed,
9 altered, repaired, converted, or maintained, or any building, structure, land, or water is
10 used, in violation of this chapter or of any code, order, resolution, or other regulation made
11 by the board under authority conferred by this chapter or under law, the board, any
12 landowner, any appropriate local government, or any citizen residing in the district may
13 institute any appropriate action or proceeding to prevent such unlawful erection,
14 construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain,
15 correct, or prevent such violation; to prevent the occupancy of such building, structure,
16 land, or water; and to prevent any illegal act, conduct, business, or use in or about such
17 premises, land, or water.

18 36-93-21.

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

31 36-93-22.

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

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

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

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

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

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

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

35 (c) The district may merge with other districts upon a two-thirds' vote of the qualified
36 electors in each district and filing a petition with the appropriate local government, subject
37 to approval by such government, which shall contain the same information required for a

1 petition for creation pursuant to subsection (d) of Code Section 36-93-3, as applicable. The
 2 new district formed by a merger involving existing districts shall assume all indebtedness
 3 of, and receive title to, all property owned by the preexisting districts. Prior to filing a
 4 petition for merger, the districts desiring to merge shall enter into a merger agreement and
 5 shall provide for the proper allocation of the indebtedness so assumed and the manner in
 6 which the assumed debt shall be retired.

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

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

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

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

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

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

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

24 36-93-23.

25 (a) The district shall provide for the full disclosure of information relating to the public
 26 and private financing and maintenance of improvements to real property including, but not
 27 limited to, the costs of all improvements, facilities, infrastructure, and development
 28 undertaken by the district. The required information shall be made available to all existing
 29 residents, and to all prospective residents, of the district. The district shall furnish each
 30 developer of a development within the district with sufficient copies of that information to
 31 provide a copy to each prospective purchaser of property in that development; and any
 32 developer of a development within the district, when required by law to provide a public
 33 offering statement, shall include a copy of information relating to the public financing and
 34 maintenance of improvements in the public offering statement.

35 (b) Subsequent to the establishment of a district under this chapter, each contract for the
 36 sale of a parcel of real property, each contract for the sale of a residential unit, and each

1 lease agreement for the rental of a residential unit within the district shall include,
 2 immediately prior to the space reserved in the contract for the signature of the purchaser,
 3 the following disclosure statement in boldface and conspicuous type which is larger than
 4 the type in the remaining text of the contract: 'THE PROPERTY YOU ARE ABOUT TO
 5 PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE
 6 DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE
 7 DEVELOPMENT DISTRICT MAY IMPOSE ASSESSMENTS ON THIS PROPERTY
 8 FOR THE COSTS OF ALL IMPROVEMENTS, FACILITIES, INFRASTRUCTURE,
 9 AND DEVELOPMENTS. CERTAIN OF THESE ASSESSMENTS PAY THE INITIAL
 10 COSTS OF THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. THESE
 11 ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT
 12 EXCEED \$_____ PER YEAR. ADDITIONAL ASSESSMENTS MAY PAY THE
 13 OPERATION AND MAINTENANCE OF DISTRICT PROJECTS, AND SUCH COSTS
 14 ARE CAPPED BY LAW. DISTRICT ASSESSMENTS ARE IN ADDITION TO
 15 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS
 16 AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THIS
 17 DISCLOSURE AND THE CONTRACT FOR SALE IN WHICH IT APPEARS SHALL
 18 BE ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.'

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

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

30 36-93-24.

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

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

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

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

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

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

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

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

23 (g) In lieu of the general notice required under Code Section 36-93-23, a person who sells
 24 or conveys real property located within the defined area or designated property of the
 25 district shall provide the following prescribed notice, which shall be disclosed in the same
 26 manner as notice required under Code Section 36-93-23: 'THE PROPERTY YOU ARE
 27 ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District)
 28 INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District)
 29 INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE ASSESSMENTS ON
 30 THIS PROPERTY FOR THE COSTS OF ALL IMPROVEMENTS, FACILITIES, AND
 31 INFRASTRUCTURE. CERTAIN OF THESE ASSESSMENTS PAY THE INITIAL
 32 COSTS OF THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. THESE
 33 ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT
 34 EXCEED \$_____ PER YEAR. ADDITIONAL ASSESSMENTS PAY THE
 35 OPERATION AND MAINTENANCE COSTS OF DISTRICT PROJECTS, AND SUCH
 36 COSTS ARE CAPPED BY LAW. DISTRICT ASSESSMENTS ARE IN ADDITION TO
 37 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS

1 AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THIS
 2 DISCLOSURE AND THE CONTRACT FOR SALE IN WHICH IT APPEARS SHALL
 3 BE ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.

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

10 (h) The limit on assessments for initial costs and costs for 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 36-93-25.

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

1 such service. Such construction or costs of construction may include any infrastructure
 2 required to connect district infrastructure to the service delivery provider's existing
 3 infrastructure and the costs of any modification, improvement, or construction of
 4 infrastructure necessary to provide service to the district. The district shall only be required
 5 to construct or pay for construction of infrastructure project costs that are proportionately
 6 associated with the infrastructure necessary to serve the anticipated usage within the
 7 district. Finally, a service delivery provider's delay in providing service due to a lack of
 8 permit capacity or due to documented intended use of existing permit capacity shall not
 9 constitute a refusal to provide service to the district.

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

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

20 36-93-26.

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

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

26 SECTION 2.

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

31 "(a) Any person who owns or operates a facility of any type or who desires to erect,
 32 modify, alter, or commence operation of a facility of any type which results or will result
 33 in the discharge of pollutants from a point source into the waters of the state shall obtain
 34 from the director a permit to make such discharge. Any person desiring to erect, modify,
 35 alter, or commence operation of a facility which will result in such discharge but which is

1 not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the
 2 discharge of same. Any person who is operating a facility which results in such discharge
 3 as of July 1, 1974, may continue to make such discharge pending final action by the
 4 director on the application for such discharge permit, provided that such application has
 5 been filed with the director by September 29, 1974; and provided, further, that such
 6 discharge does not present an immediate health hazard to the public. The director, under
 7 the conditions he or she prescribes, may require the submission of such plans,
 8 specifications, and other information as he or she deems relevant in connection with the
 9 issuance of such permits. The director may, after public notice and opportunity for public
 10 hearing, issue a permit which authorizes the person to make such discharge, upon condition
 11 that such discharge meets or will meet, pursuant to any schedule of compliance included
 12 in such permit, all water quality standards, effluent limitations, and all other requirements
 13 established pursuant to this article. The director shall give preference to existing permits
 14 or modification of existing permits in conformity with existing service delivery strategy
 15 agreements required in Chapter 70 of Title 36."

16 **SECTION 3.**

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

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

28 **SECTION 4.**

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

31 "(b) When sufficient evidence is provided by the applicant that the water withdrawn or
 32 used from the ground is not consumptively used, a permit therefor shall be issued by the
 33 division without a hearing and without the conditions provided in subsection (c) of this
 34 Code section. Applications for such permits shall set forth such facts as the division shall
 35 deem necessary to enable it to establish and maintain adequate records of all water uses.

1 The director shall give preference to existing permits or modification of existing permits
2 in conformity with existing service delivery strategy agreements required in Chapter 70 of
3 Title 36."

4 **SECTION 5.**

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

11 **SECTION 6.**

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