

House Bill 764

By: Representatives Millar of the 79<sup>th</sup>, Oliver of the 83<sup>rd</sup>, Drenner of the 86<sup>th</sup>, Mitchell of the 88<sup>th</sup>, Jacobs of the 80<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act entitled the "Unincorporated DeKalb County Community Improvement  
2 District Act of 1998," approved April 2, 1998 (Ga. L. 1998, p. 4228), as amended, by an Act  
3 approved January 7, 1999 (Ga. L. 1999, p. 4805), an Act approved April 1, 2005 (Ga. L.  
4 2005, p. 3507), and an Act approved May 18, 2007 (Ga. L. 2007, p. 4064), so as to provide  
5 a definition for the governing authority of the City of Dunwoody; to provide for the  
6 composition of the district board upon the incorporation of some portion of the district; to  
7 provide for future expansion of the district; to provide for debt of the district; to provide for  
8 cooperation of the district with the City of Dunwoody; to provide for powers of the district  
9 board; to provide for the adoption of a dissolution resolution; to repeal conflicting laws; and  
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 An Act entitled the "Unincorporated DeKalb County Community Improvement District Act  
14 of 1998," approved April 2, 1998 (Ga. L. 1998, p. 4228), as amended, by an Act approved  
15 January 7, 1999 (Ga. L. 1999, p. 4805), an Act approved April 1, 2005 (Ga. L. 2005, p.  
16 3507), and an Act approved May 18, 2007 (Ga. L. 2007, p. 4064), is amended in Section 3  
17 by adding a new paragraph (10) and renumbering existing paragraphs (10), (11), (12), (13),  
18 and (14) as follows:

19 "(10) 'Governing authority of the City of Dunwoody' means the city council of  
20 Dunwoody and the mayor of Dunwoody as provided in an Act incorporating the City of  
21 Dunwoody in DeKalb County, approved March 10, 2008 (Ga. L. 2008, p. 3536), as  
22 amended.

23 (11) 'Governing authority of DeKalb County' means the Board of Commissioners of  
24 DeKalb County and the Chief Executive Officer of DeKalb County as provided in an Act  
25 superseding and consolidating the laws relating to DeKalb County, approved March 8,

26 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981  
 27 (Ga. L. 1981, p. 4304).

28 (12) 'Project' means the acquisition, construction, installation, modification, renovation,  
 29 or rehabilitation of land, interests in land, buildings, structures, facilities, or other  
 30 improvements located or to be located within the district or in any other community  
 31 improvement district immediately adjoining the district as to directly benefit the district,  
 32 such benefit to be determined by the board, and the acquisition, installation, modification,  
 33 renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or  
 34 other property of any nature whatsoever used on, in, or in connection with any such land,  
 35 interest in land, building, structure, facility, or other improvement, for all the essential  
 36 public purposes set forth in Section 2 of this Act.

37 (13) 'Property owner' or 'owner of real property' means any entity or person shown as a  
 38 taxpayer for one or more parcels of real estate on the most recent ad valorem tax records  
 39 of DeKalb County within the district as certified by the DeKalb County Tax  
 40 Commissioner. Multiple owners of one parcel shall constitute one property owner and  
 41 shall designate in writing one of their number to represent the whole.

42 (14) 'Property used nonresidentially' means property or any portion thereof used for  
 43 neighborhood shopping, planned shopping center, general commercial, tourist services,  
 44 office or institutional, office services, light industry, heavy industry, central business  
 45 district, parking, or other commercial or business use, as well as vacant land zoned or  
 46 approved for any of the uses specified in this paragraph.

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

51 **SECTION 2.**

52 Said Act is further amended in Section 5 by adding a new subsection (g) to read as follows:

53 "(g) If the boundaries of the district are subsequently changed after the creation of the  
 54 district to include land within a municipality which was not a party to the creation of the  
 55 district, or if a municipality's boundaries are changed to include land within the boundaries  
 56 of the district, the governing authority of the municipality shall acquire the right to appoint  
 57 a member to the board of the district upon entering into the cooperation agreement  
 58 provided for in Section 9 of this Act."

59 **SECTION 3.**

60 Said Act is further amended in Section 6 by revising subsection (d) as follows:

61 "(d) Each property paying taxes, fees, or assessments levied by the board for any public  
 62 facility as set forth in Section 2 of this Act shall receive a credit equal to the present value  
 63 of all such taxes, fees, and assessments toward any impact fee as may be levied by DeKalb  
 64 County or the City of Dunwoody against said property for system improvements which are  
 65 in the same category as said public facility in accordance with Chapter 71 of Title 36 of the  
 66 O.C.G.A., the 'Georgia Development Impact Fee Act.'"

67 **SECTION 4.**

68 Said Act is further amended in Section 7 by revising subsection (c) as follows:

69 "(c) The boundaries of the district may be increased after the initial creation of the district  
 70 pursuant to the following:

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

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

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

80 (4) The adoption of a resolution consenting to the annexation by the governing authority  
 81 of DeKalb County if the territory proposed to be annexed is in unincorporated DeKalb  
 82 County or by the governing authority of the City of Dunwoody if the territory proposed  
 83 to be annexed is in the City of Dunwoody."

84 **SECTION 5.**

85 Said Act is further amended by revising Section 8 as follows:

86 "SECTION 8.

87 Debt.

88 The district may incur debt without regard to the requirements of Article IX, Section V of  
 89 the Constitution of Georgia or any other provision of law prohibiting or restricting the  
 90 borrowing of money or the creation of debt by political subdivisions of the State of  
 91 Georgia, which debt shall be backed by the full faith, credit, and taxing power of the  
 92 district but shall not be an obligation of the State of Georgia, DeKalb County, the City of  
 93 Dunwoody, or any other unit of government of the State of Georgia other than the district."

94 **SECTION 6.**

95 Said Act is further amended by revising Section 9 as follows:

96 "SECTION 9.

97 Cooperation with local governments.

98 The services and facilities provided in the unincorporated portion of the district pursuant  
 99 to this Act shall be provided for in a cooperation agreement executed jointly by the board  
 100 and the governing authority of DeKalb County. The services and facilities provided in the  
 101 incorporated portion of the district pursuant to this Act shall be provided for in a  
 102 cooperation agreement executed jointly by the board and the governing authority of the  
 103 City of Dunwoody. The provisions of this section shall in no way limit the authority of  
 104 DeKalb County and the City of Dunwoody to provide services or facilities within the  
 105 district, and DeKalb County and the City of Dunwoody shall retain full and complete  
 106 authority and control over any of their facilities located within the district. Said control  
 107 shall include, but shall not be limited to, the modification of, access to, and degree and type  
 108 of services provided through or by facilities of the county or city. Nothing contained in this  
 109 section shall be construed to limit or preempt the application of any governmental laws,  
 110 ordinances, resolutions, or regulations to the district or the services or facilities provided  
 111 therein."

112 **SECTION 7.**

113 Said Act is further amended in Section 10 by revising paragraph (15) as follows:

114 "(15) To encourage and promote the improvement and development of the district and  
 115 to make, contract for, or otherwise cause to be made long-range plans or proposals for the  
 116 district in cooperation with DeKalb County and the City of Dunwoody."

117 **SECTION 8.**

118 Said Act is further amended by revising Section 14 as follows:

119 "SECTION 14.

120 Dissolution.

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

123 (1) The adoption of a resolution approving of the dissolution of the community  
 124 improvement district by the governing authority of DeKalb County and the governing  
 125 authority of the City of Dunwoody; and

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

127 (A) Two-thirds (67 percent) of the owners of real property within the district which are  
128 subject to taxes, fees, and assessments levied by the board of the district; and

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

133 The written consent provided for in subparagraphs (A) and (B) of this paragraph shall be  
134 submitted to the DeKalb County Tax Commissioner, who shall certify whether such written  
135 consent has been satisfied with respect to the proposed district dissolution.

136 (b) At the official caucus of electors at which board members are to be elected in the sixth  
137 year following creation of the district and every sixth year thereafter, the question shall be  
138 put to the electors present to dissolve the community improvement district. Upon an  
139 affirmative vote of a majority of the electors present and voting, who shall represent at least  
140 75 percent of the votes cast on the basis of value of all real property within the district, the  
141 board shall send a ballot to each owner of real property within the district subject to taxes,  
142 fees, and assessments levied by the board for a vote on the dissolution. Upon receipt of  
143 ballots consenting to the dissolution from a majority of those real property owners, who  
144 shall represent at least 75 percent of the assessed value of said properties, the board shall  
145 request dissolution by the governing authority of DeKalb County and the governing  
146 authority of the City of Dunwoody and shall forward said ballots to the DeKalb County  
147 Tax Commissioner for certification.

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

153 (d) Upon a successful dissolution action, all noncash assets of the district other than public  
154 facilities or land or easements to be used for such public facilities, as described in Section  
155 2 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be  
156 applied to the repayment of any or all debt obligations of the district. Any cash remaining  
157 after all outstanding obligations are satisfied shall be refunded to each property owner in  
158 direct proportion to the total amount in taxes, fees, or assessments paid for the property  
159 relative to the total revenues paid by all properties in the district.

160 (e) When a dissolution becomes effective, the governing authority of DeKalb County shall  
161 take title to all property previously in the ownership of the district and located in the  
162 unincorporated portion of the district, and the governing authority of the City of Dunwoody  
163 shall take title to all property previously in the ownership of the district and located in the

164 incorporated portion of the district. All taxes, fees, and assessments of the district shall  
165 cease to be levied and collected.  
166 (f) The district may be reactivated in the same manner as an original activation."

167

**SECTION 9.**

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