

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 588:

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act creating one or more community improvement districts in Hall County,
2 Georgia (Ga. L. 2008, p. 4050), so as to change a certain provision relating to the location
3 of such districts; to change provisions relating to the appointment of a member of the district
4 board; to provide for related matters; to provide an effective date; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 An Act creating one or more community improvement districts in Hall County, Georgia (Ga.
9 L. 2008, p. 4050), is amended by revising Section 2 as follows:

10 "SECTION 2.

11 Purpose.

12 The purpose of this Act shall be to provide for the creation of one or more community
13 improvement districts within Hall County, and such districts shall be created for the
14 provision of such of the following governmental services and facilities as may be provided
15 for in the resolution activating each district created pursuant to this Act, or as may be
16 adopted by a caucus of electors as defined in this Act:

- 17 (1) Street and road construction and maintenance, including curbs, sidewalks, street
- 18 lights, and devices to control the flow of traffic on streets and roads;
- 19 (2) Parks and recreational areas and facilities;
- 20 (3) Storm water and sewage collection and disposal systems;
- 21 (4) Development, storage, treatment, purification, and distribution of water;
- 22 (5) Public transportation;
- 23 (6) Terminal and dock facilities and parking facilities; and
- 24 (7) Such other services and facilities as may be provided for by general law."

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SECTION 2.

Said Act is further amended by revising Section 4 as follows:

"SECTION 4.

Creation.

Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there is created one or more community improvement districts to be located in the area of Hall County, Georgia, each of which shall be activated upon compliance with the conditions set forth in this section. Each district shall be governed by a board constituted by this Act. The conditions for such activation shall be:

(1) The adoption of a resolution consenting to the creation of each community improvement district by:

- (A) The Board of Commissioners of Hall County if the district is located wholly within the unincorporated area of Hall County;
- (B) The governing authority of the municipality if the district is located wholly within the incorporated area of a municipality; or
- (C) The governing authorities of Hall County and any municipality in which the district is partially located if it is located within the unincorporated area of Hall County and partially within the incorporated area of any municipality; and

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

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

The written consent provided for in this paragraph shall be submitted to the tax commissioner of Hall County, who shall certify whether subparagraphs (A) and (B) of this paragraph have been satisfied with respect to each such proposed district. No district or board created under this Act shall transact any business or exercise any powers under this Act until the foregoing conditions are met. A copy of such resolutions shall be filed with the Secretary of State, who shall maintain a record of all districts activated under this Act, and with the Department of Community Affairs."

SECTION 3.

Said Act is further amended by revising Section 5 as follows:

"SECTION 5.

Administration, appointment, and election of board members.

(a) Each district created pursuant to this Act shall be administered by a board composed of at least seven board members to be appointed and elected as provided in this section. Two board members shall be appointed by the governing authority of Hall County, but if any of the district is located wholly or partially within the incorporated area of a municipality, one board member shall be appointed by the governing authority of Hall County and one board member shall be appointed by the governing authority of each municipality within which the district is wholly or partially located. Two board members shall be elected by vote of the electors; and three members shall be elected by the vote of the equity electors. The members representing the electors and equity electors shall be elected to serve in positions for Posts 1 through 5, respectively. Each elected board member must receive a majority of the votes cast for the post for which he or she is a candidate. Votes for Posts 1 and 2 shall be cast by electors and votes for Posts 3, 4, and 5 shall be cast by equity electors. The initial term of office for the members representing Posts 1 and 4 shall be one year. The initial term of office for the members representing Posts 2 and 5 shall be two years, and the initial term of office of the member representing Post 3 shall be three years. Thereafter, all terms of office for the elected board members shall be for three years. The appointed board members shall serve at the pleasure of the governing authorities which appointed them.

(b) The initial board members to be elected as provided in subsection (a) of this section shall be elected in a caucus of electors which shall be held within 90 days after the adoption of the resolutions and obtaining the written consents herein provided at such time and place within the district as the governing authority of Hall County shall designate after notice thereof has been given to said electors as provided in this Act. Thereafter, there shall be conducted annually, not later than 60 days following the last day for filing ad valorem real property tax returns in Hall County, a caucus of said electors at such time and place within the district as the board shall designate in such notice for the purpose of electing board members to those board member positions whose terms expire or are vacant. If a vacancy occurs in an elected position on the board, the board shall, within 60 days thereof, call a special election to fill the same to be held within 60 days of the call unless such vacancy occurs within 180 days of the next regularly scheduled election, in which case a special election may, but need not, be called.

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

94 (d) Board members shall receive no compensation for their services, but shall be
 95 reimbursed for actual expenses incurred in the performance of their duties. They shall elect
 96 one of their number as chairperson and another as vice chairperson. They shall also elect
 97 a secretary and a treasurer, or a secretary-treasurer, any of whom may, but need not, be a
 98 member of the board or an elector.

99 (e) Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code,' shall not apply to
 100 the election of district board members. The district board may adopt such bylaws not
 101 inconsistent with this Act to provide for any matter concerning such elections."

102 **SECTION 4.**

103 Said Act is further amended by revising Section 6 as follows:

104 "SECTION 6.

105 Taxes, fees, and assessments.

106 (a) The board may levy taxes, fees, and assessments within the district only on real
 107 property used nonresidentially, specifically excluding all property exempt from ad valorem
 108 taxation under the Constitution or laws of the State of Georgia; all property used for
 109 residential, agricultural, or forestry purposes; and all tangible personal property and
 110 intangible property. Any tax, fee, or assessment so levied shall not exceed 2.5 percent of
 111 the aggregate assessed value of all such real property. The taxes, fees, and assessments
 112 levied by the board shall be equitably apportioned among the properties subject to such
 113 taxes, fees, and assessments according to the need for governmental services and facilities
 114 created by the degree of density of development of each such property. The proceeds of
 115 taxes, fees, and assessments levied by the board shall be used only for the purpose of
 116 providing governmental services and facilities which are specially required by the degree
 117 of density of development within the district and not for the purpose of providing those
 118 governmental services and facilities provided to the county as a whole. Any tax, fee, or
 119 assessment so levied shall be collected by Hall County in the same manner as taxes, fees,
 120 and assessments are levied by Hall County. Delinquent taxes shall bear the same interest
 121 and penalties as Hall County ad valorem taxes and may be enforced and collected in the
 122 same manner. The proceeds of taxes, fees, and assessments so levied, less a fee to cover
 123 the costs of collection of 1 percent of such proceeds, but not more than \$25,000.00 in any
 124 one calendar year, shall be transmitted by Hall County to the board and shall be expended
 125 by the board only for the purposes authorized by this Act.

126 (b) The board shall levy the taxes, fees, and assessments in subsection (a) of this section
 127 subsequent to the report of the assessed taxable values for the current calendar year and

128 notify Hall County in writing so that the district levy may be included on Hall County's
129 regular ad valorem tax bills.

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

134 (d) Each property owner paying taxes, fees, or assessments levied by the board for any
135 public facility as set forth in Section 2 of this Act may receive a credit equal to the present
136 value of all such taxes, fees, and assessments toward any impact fee as may be levied by
137 Hall County and each municipality within which the district is wholly or partially located
138 against such property for system improvements which are in the same category as said
139 public facility in accordance with Chapter 71 of Title 36 of the O.C.G.A., the 'Georgia
140 Development Impact Fee Act.' Application for such development impact fee credit may
141 be granted by legislative action of the governing authority of Hall County and each
142 municipality within which the district is wholly or partially located in its discretion."

143 **SECTION 5.**

144 Said Act is further amended by revising Section 7 as follows:

145 "SECTION 7.

146 Boundaries of the districts.

147 (a) The boundaries of each district shall be as designated as such by the governing
148 authority of Hall County as set forth in the resolutions required in Section 4 of this Act, or
149 as may thereafter be added as provided in this Act.

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

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

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

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

161 (4) The adoption of a resolution consenting to the annexation by the governing
 162 authorities of Hall County and each municipality within which the district is wholly or
 163 partially located."

164 **SECTION 6.**

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

166 "SECTION 9.

167 Cooperation with local governments.

168 The services and facilities provided pursuant to this Act shall be provided for in a
 169 cooperation agreement executed jointly by the board and by Hall County and each
 170 municipality within which the district is wholly or partially located. The provisions of this
 171 section shall in no way limit the authority of Hall County and each municipality within which
 172 the district is wholly or partially located to provide services or facilities within the district;
 173 and Hall County and each municipality within which the district is wholly or partially located
 174 shall retain full and complete authority and control over any of its facilities located within
 175 its respective areas of any district. Said control shall include, but not be limited to, the
 176 modification of, access to, and degree and type of services provided through or by facilities
 177 of the county. Nothing contained in this section shall be construed to limit or preempt the
 178 application of any governmental laws, ordinances, resolutions, or regulations to the district
 179 or the services or facilities provided therein."

180 **SECTION 7.**

181 Said Act is further amended by revising paragraphs (15) and (18) of subsection (a) of Section
 182 10 as follows:

183 "(15) To encourage and promote the improvement and development of the district and
 184 to make, contract for, or otherwise cause to be made long-range plans or proposals for the
 185 district in cooperation with Hall County and each municipality within which the district
 186 is wholly or partially located;"

187 "(18) To create, provide, enhance, or supplement public services such as fire, police, and
 188 other such services as may be deemed necessary, provided that said public services do
 189 not conflict with or duplicate existing Hall County services and each municipality within
 190 which the district is wholly or partially located; and"

191 **SECTION 8.**

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

193 "SECTION 14.

194 Dissolution.

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

197 (1) The adoption of a resolution approving the dissolution of each community
198 improvement district by:

199 (A) The Board of Commissioners of Hall County if the district is located wholly within
200 the unincorporated area of Hall County;

201 (B) The governing authority of the municipality if the district is located wholly within
202 the incorporated area of a municipality; or

203 (C) The governing authorities of Hall County and any municipality in which the
204 district is partially located if it is located within the unincorporated area of Hall County
205 and partially within the incorporated area of any municipality; and

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

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

209 (B) The owners of real property constituting at least 75 percent by value of all real
210 property within the district that are subject to taxes, fees, and assessments levied by the
211 board. For this purpose, value shall be determined by the most recently approved
212 county ad valorem tax digest.

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

216 (b) At the official caucus of electors at which board members are to be elected in the tenth
217 year following creation of the district, and every tenth year thereafter, the question shall be
218 put to the electors present to dissolve the community improvement district. Upon an
219 affirmative vote of two-thirds of the electors present and voting, who shall represent at least
220 75 percent of the votes cast on the basis of value, the board shall send a ballot to each
221 owner of property subject to taxes, fees, and assessments levied by the board for a vote on
222 the dissolution. Upon receipt of ballots consenting to the dissolution from a majority of the
223 property owners, who shall represent at least 75 percent of the assessed value of said
224 properties, the board shall request dissolution by the governing authority and shall forward
225 said ballots to the Hall County tax commissioner for certification.

226 (c) In the event that successful action is taken pursuant to this section to dissolve the
227 district, the dissolution shall become effective at such time as all debt obligations of the
228 district have been satisfied. Following a successful dissolution action and until the

229 dissolution becomes effective, no new projects may be undertaken, no new obligations or
230 debts may be incurred, and no new property may be acquired.

231 (d) Upon a successful dissolution action, all noncash assets of the district other than public
232 facilities or land or easements to be used for such public facilities, as described in Section
233 2 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be
234 applied to the repayment of any debt obligation of the district. Any cash remaining after
235 all outstanding obligations are satisfied shall be refunded to each property owner in direct
236 proportion to its assessed value relative to the total assessed value of the district in the tax
237 year of dissolution.

238 (e) When dissolution becomes effective, the county governing authority shall take title to
239 all property previously in the ownership of the district in the unincorporated area of Hall
240 County, and any municipality in which the district is wholly or partially located shall take
241 title to all such property in the incorporated area, and all taxes, fees, and assessments of the
242 district shall cease to be levied and collected."

243 **SECTION 9.**

244 This Act shall become effective immediately upon its approval by the Governor or its
245 becoming law without such approval.

246 **SECTION 10.**

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