

House Bill 614 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80th, Holcomb of the 81st, Oliver of the 82nd, Taylor of the 79th, Mayo of the 84th, 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,
3 particularly by an Act approved May 6, 2009 (Ga. L. 2009, p. 3549), so as to provide a
4 definition for the governing authority of the City of Brookhaven; to provide for the
5 composition of the district board upon the incorporation of some portion of the district; to
6 provide for future expansion of the district; to provide for debt of the district; to provide for
7 cooperation of the district with the City of Brookhaven; to provide for powers of the district
8 board; to provide for the adoption of a dissolution resolution; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 An Act entitled the "Unincorporated DeKalb County Community Improvement District Act
13 of 1998," approved April 2, 1998 (Ga. L. 1998, p. 4228), as amended, particularly by an Act
14 approved May 6, 2009 (Ga. L. 2009, p. 3549), is amended by adding a new paragraph to
15 Section 3 to read as follows:

16 "(9.1) 'Governing authority of the City of Brookhaven' means the city council of
17 Brookhaven and the mayor of Brookhaven as provided in an Act incorporating the City
18 of Brookhaven in DeKalb County, approved April 16, 2012 (Ga. L. 2012, p. 5527)."

19 **SECTION 2.**

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

21 "(d) Each property paying taxes, fees, or assessments levied by the board for any public
22 facility as set forth in Section 2 of this Act shall receive a credit equal to the present value
23 of all such taxes, fees, and assessments toward any impact fee as may be levied by DeKalb
24 County, the City of Brookhaven, or the City of Dunwoody against said property for system

25 improvements which are in the same category as said public facility in accordance with
 26 Chapter 71 of Title 36 of the O.C.G.A., the 'Georgia Development Impact Fee Act.'"

27 **SECTION 3.**

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

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

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

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

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

40 (4) The adoption of a resolution consenting to the annexation by the governing authority
 41 of DeKalb County if the territory proposed to be annexed is in unincorporated DeKalb
 42 County, by the governing authority of the City of Brookhaven if the territory proposed
 43 to be annexed is in the City of Brookhaven, or by the governing authority of the City of
 44 Dunwoody if the territory proposed to be annexed is in the City of Dunwoody."

45 **SECTION 4.**

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

47 "SECTION 8.

48 Debt.

49 The district may incur debt without regard to the requirements of Article IX, Section V of
 50 the Constitution of Georgia or any other provision of law prohibiting or restricting the
 51 borrowing of money or the creation of debt by political subdivisions of the State of
 52 Georgia, which debt shall be backed by the full faith, credit, and taxing power of the
 53 district but shall not be an obligation of the State of Georgia, DeKalb County, the City of
 54 Brookhaven, the City of Dunwoody, or any other unit of government of the State of
 55 Georgia other than the district."

56 **SECTION 5.**

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

58 "SECTION 9.

59 Cooperation with local governments.

60 The services and facilities provided in the City of Brookhaven portion of the district
 61 pursuant to this Act shall be provided for in a cooperation agreement executed jointly by
 62 the board and the governing authority of the City of Brookhaven. The services and
 63 facilities provided in the City of Dunwoody portion of the district pursuant to this Act shall
 64 be provided for in a cooperation agreement executed jointly by the board and the governing
 65 authority of the City of Dunwoody. The services and facilities provided in the
 66 unincorporated portion of the district pursuant to this Act shall be provided for in a
 67 cooperation agreement executed jointly by the board and the governing authority of
 68 DeKalb County. The provisions of this section shall in no way limit the authority of
 69 DeKalb County, the City of Brookhaven, and the City of Dunwoody to provide services
 70 or facilities within the district, and DeKalb County, the City of Brookhaven, and the City
 71 of Dunwoody shall retain full and complete authority and control over any of their facilities
 72 located within the district. Said control shall include, but shall not be limited to, the
 73 modification of, access to, and degree and type of services provided through or by facilities
 74 of the county or city. Nothing contained in this section shall be construed to limit or
 75 preempt the application of any governmental laws, ordinances, resolutions, or regulations
 76 to the district or the services or facilities provided therein."

77 **SECTION 6.**

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

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

83 **SECTION 7.**

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

"SECTION 14.

Dissolution.

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

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

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

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

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

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

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

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

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

127 (e) When a dissolution becomes effective, the governing authority of DeKalb County shall
128 take title to all property previously in the ownership of the district and located in the
129 unincorporated portion of the district, the governing authority of the City of Brookhaven
130 shall take title to all property previously in the ownership of the district and located in the
131 incorporated portion of the district located in the City of Brookhaven, and the governing
132 authority of the City of Dunwoody shall take title to all property previously in the
133 ownership of the district and located in the incorporated portion of the district located in
134 the City of Dunwoody. All taxes, fees, and assessments of the district shall cease to be
135 levied and collected.

136 (f) The district may be reactivated in the same manner as an original activation."

137 **SECTION 8.**

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