

House Bill 658

By: Representatives Mitchell of the 88th, Williams of the 87th, Drenner of the 85th, Kendrick of the 93rd, Anderson of the 92nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act creating one or more community improvement districts within DeKalb
2 County, approved May 13, 2008 (Ga. L. 2008, p. 3817), as amended, so as to change certain
3 provisions so that community improvement districts may be created within municipalities
4 in DeKalb County; to provide for a millage rate cap; to provide an effective date; to repeal
5 conflicting laws; 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 within DeKalb County,
9 approved May 13, 2008 (Ga. L. 2008, p. 3817), as amended, is amended by revising Section
10 2 as follows:

11 "SECTION 2.

12 The purpose of this Act shall be to provide for the creation of one or more community
13 improvement districts within unincorporated DeKalb County and each municipality therein,
14 and such district shall be created for the provision of such of the following governmental
15 services and facilities as may be provided for in the resolution activating each district created
16 hereby, or as may be adopted by resolutions of the majority of the electors and the majority
17 of the equity electors as defined in this Act:

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

26 **SECTION 2.**

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

28 "SECTION 4.

29 Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there is
 30 created one or more community improvement districts to be located in DeKalb County,
 31 Georgia, either wholly within the unincorporated area thereof or wholly within any
 32 municipality or municipalities therein, or partially within one or more municipalities and
 33 partially within the unincorporated area thereof, each of which shall be activated upon
 34 compliance with the conditions set forth in this section. Each district shall be governed by
 35 a board constituted by this Act. The conditions for such activation shall be:

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

38 (A) The governing authority of DeKalb County if the district is located wholly within
 39 the unincorporated area of DeKalb County;

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

42 (C) The governing authorities of DeKalb County and any municipality in which the
 43 district is partially located if it is partially within the unincorporated area of DeKalb
 44 County and partially within the incorporated area of any municipality; and

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

46 (A) A majority of the owners of real property within the district which will be subject
 47 to taxes, fees, and assessments levied by the board of the district; and

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

52 The written consent provided for in this paragraph shall be submitted to the tax
 53 commissioner of DeKalb County, who shall certify whether subparagraphs (A) and (B)
 54 of this paragraph have been satisfied with respect to such proposed district.

55 No district or board created under this Act shall transact any business or exercise any powers
 56 under this Act until the foregoing conditions are met. A copy of such resolutions shall be
 57 filed with the Secretary of State, who shall maintain a record of all districts activated under
 58 this Act, and with the Georgia Department of Community Affairs. Any district created
 59 within an unincorporated area of DeKalb County shall remain in full force and effect if made
 60 a part of the formation of or annexed into a subsequently created municipality. Likewise, a
 61 subsequently created municipality situated completely within the boundaries of the district

62 shall not operate to deactivate the operation of the district as related to the newly
 63 incorporated properties of the municipality. No resolution of the municipality shall be
 64 necessary to maintain the operation of the existing district."

65

SECTION 3.

66 Said Act is further amended by revising subsection (a) of Section 5 as follows:

67 "(a) Each district created pursuant to this Act shall be administered by a board composed
 68 of at least seven board members to be appointed and elected as provided in this section.
 69 Two board members shall be appointed by the governing authority of DeKalb County
 70 should the district boundaries lie entirely within unincorporated DeKalb County. Should
 71 any of the district lie within the incorporated area of DeKalb County, only one board
 72 member shall be appointed by the governing authority of DeKalb County. One board
 73 member shall be appointed by the governing authority of each municipality within which
 74 any portion of the district lies. A district situated within two or more municipalities shall
 75 increase the number of board members to accommodate the representation of one
 76 appointed board position from each municipality. Two board members shall be elected by
 77 the vote of electors, and three members shall be elected by the vote of equity electors. The
 78 members representing electors and equity electors shall be elected to serve in post positions
 79 1 through 5, respectively. Each elected board member must receive a majority of the votes
 80 cast for the post for which he or she is a candidate. Votes for Posts 1 and 2 shall be cast
 81 by electors and votes for Posts 3, 4, and 5 shall be cast by equity electors. The initial terms
 82 of office of the members representing Posts 1 and 4 shall be one year. The initial terms of
 83 office of the members representing Posts 2 and 5 shall be two years, and the initial term of
 84 office of the member representing Post 3 shall be three years. Thereafter, all terms of
 85 office shall be for three years. The appointed board members shall serve at the pleasure
 86 of the municipality or county with the authority to appoint the board member."

87

SECTION 4.

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

89 "(a) The board may levy taxes, fees, and assessments within the district only on real
 90 property used nonresidentially, specifically excluding all property exempt from ad valorem
 91 taxation under the Constitution or laws of the State of Georgia; all property used for
 92 residential, agricultural, or forestry purposes; and all tangible personal property and
 93 intangible property. Any tax, fee, or assessment so levied shall not exceed five mills of the
 94 assessed value of all such real property. The taxes, fees, and assessments levied by the
 95 board shall be equitably apportioned among the properties subject to such taxes, fees, and
 96 assessments according to the need for governmental services and facilities created by the

97 degree of density of development of each such property. The proceeds of taxes, fees, and
 98 assessments levied by the board shall be used only for the purpose of providing
 99 governmental services and facilities which are specially required by the degree of density
 100 of development within the district and not for the purpose of providing those governmental
 101 services and facilities provided to the county or municipality as a whole. Any tax, fee, or
 102 assessment so levied shall be collected by DeKalb County in the same manner as taxes,
 103 fees, and assessments are levied by DeKalb County. Delinquent taxes shall bear the same
 104 interest and penalties as DeKalb County or municipal ad valorem taxes and may be
 105 enforced and collected in the same manner. The proceeds of taxes, fees, and assessments
 106 so levied, less a fee to cover the costs of collection of 1 percent of such proceeds, but not
 107 more than \$25,000.00 in any one calendar year, shall be transmitted by DeKalb County to
 108 the board and shall be expended by the board only for the purposes authorized by this Act."

109 **SECTION 5.**

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

111 "SECTION 7.

112 (a) The boundaries of each district or districts shall be as designated as such by the
 113 governing authority of DeKalb County and such municipalities within which the district
 114 may be partially located if partially within the unincorporated area of DeKalb County and
 115 partially within one or more municipalities, or by the governing authority of a municipality
 116 if wholly within the incorporated area thereof, as set forth in the resolution required in
 117 Section 4 of this Act, or as may thereafter be added as provided in this Act.

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

120 (1) Written consent of a majority of the owners of real property within the areas sought
 121 to be annexed and which will be subject to taxes, fees, and assessments levied by the
 122 board of the district;

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

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

129 (4) The adoption of a resolution consenting to the annexation by the governing authority
 130 of DeKalb County if any portion of the district is or is to be in the unincorporated area

131 of DeKalb County, and/or the governing authority of such municipalities as may have
 132 area within the district immediately before or immediately after the annexation.

133 (c) The boundaries of the district or districts may also be increased after the initial creation
 134 of a district to include property which is not at that time subject to taxes, fees, and
 135 assessments levied by the board of the district by:

136 (1) The adoption of a resolution consenting to the annexation by the board of the district;
 137 and

138 (2) The adoption of a resolution consenting to the annexation by the governing authority
 139 of DeKalb County if any portion of the district is or is to be in the unincorporated area
 140 of DeKalb County, and/or the governing authority of such municipalities as may have
 141 area within the district immediately before or immediately after the annexation."

142 **SECTION 6.**

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

144 "SECTION 9.

145 The services and facilities provided pursuant hereto will be provided for in a cooperation
 146 agreement executed jointly by the board and by the governing authority of DeKalb County
 147 if any of the district is in the unincorporated area of the county, and by any municipalities
 148 within which the district is partially located. The provisions of this section shall in no way
 149 limit the authority of DeKalb County or any such municipality to provide services or
 150 facilities within the district; and DeKalb County and such municipalities shall retain full and
 151 complete authority and control over any of its facilities located within its respective areas of
 152 any district. Said control shall include, but not be limited to, the modification of, access to,
 153 and degree and type of services provided through or by facilities of the county or such
 154 municipalities. Nothing contained in this section shall be construed to limit or preempt the
 155 application of any governmental laws, ordinances, resolutions, or regulations to the district
 156 or the services or facilities provided therein."

157 **SECTION 7.**

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

159 "SECTION 14.

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

162 (1) The adoption of a resolution approving of the dissolution of each community
 163 improvement district by the DeKalb County Board of Commissioners if wholly within

164 the unincorporated area of DeKalb County, by the governing authority of DeKalb County
 165 and such municipalities within which the district may be located if within the
 166 unincorporated area of DeKalb County and partially within one or more municipalities,
 167 or by the governing authority of a municipality if wholly within the incorporated area
 168 thereof; and

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

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

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

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

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

184 (c) Upon a successful dissolution action, all noncash assets of the district other than public
 185 facilities or land or easements to be used for such public facilities, as described in Section
 186 2 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be
 187 applied to the repayment of any debt obligation of the district. Any cash remaining after
 188 all outstanding obligations are satisfied shall be refunded to each property owner in direct
 189 proportion to the total amount in taxes, fees, or assessments paid by the property owner
 190 relative to the total revenues paid by all properties in the district in the most recent tax year.

191 (d) When dissolution becomes effective, the county governing authority for public
 192 facilities located within the unincorporated area, or the municipality within which they are
 193 located, shall take title to all property, public facilities, and land or easements to be used
 194 for such public facilities previously in the ownership of the district, and all taxes, fees, and
 195 assessments of the district shall cease to be levied and collected.

196 (e) A district may be reactivated in the same manner as an original activation."

197 **SECTION 8.**

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

200

SECTION 9.

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