House Bill 764 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

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

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

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

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

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

SECTION 2.

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

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

SECTION 3.

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

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

SECTION 4.

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

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

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

(2) Written consent of owners of real property within the area sought to be annexed which constitutes at least 75 percent by value of the property which will 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;

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

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

SECTION 5.

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

"SECTION 8.

Debt.

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

SECTION 6.

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

″SECTION 9.

Cooperation with local governments.

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

SECTION 7.

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

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

SECTION 8.

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 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 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.

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

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

incorporated portion of the district. All taxes, fees, and assessments of the district shall cease to be levied and collected.

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

SECTION 9.

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