

1 HB191
2 128159-1
3 By Representative Hill
4 RFD: County and Municipal Government
5 First Read: 07-FEB-12

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8 SYNOPSIS: This bill would amend the Alabama
9 Improvement District Act to provide further for the
10 types of improvements which a district may acquire
11 and finance.

12 This bill would provide that public notice
13 of a hearing shall not be required for a hearing to
14 be held during a regularly scheduled meeting of a
15 governing body of a county or municipality.

16 This bill would provide further for the
17 powers of the district and for the appointment and
18 terms of the members of the board of directors of a
19 district. This bill would authorize the board to
20 employ a district manager.

21 This bill would provide for the assessment
22 of lands within a district and for the levy of
23 service and user fees and rates by a district. This
24 bill would also provide remedies for nonpayment of
25 assessments. This bill would provide for
26 reassessments and amendments to existing
27 assessments.

1 This bill would provide for the issuance of
2 bonds by a district.

3 This bill would provide for prospective and
4 retroactive operation.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To amend Sections 11-99A-2, 11-99A-3, 11-99A-4,
11 11-99A-6, 11-99A-8, 11-99A-9, 11-99A-11, 11-99A-12, 11-99A-13,
12 11-99A-15, 11-99A-19, 11-99A-21, 11-99A-36, 11-99A-42, and
13 11-99A-43, Code of Alabama 1975, and to add Section 11-99A-52
14 to the Code of Alabama 1975, relating to the Alabama
15 Improvement District Act; to provide further for the types of
16 improvements which a district may acquire and finance; to
17 provide further for public notice of a hearing; to clarify and
18 provide further for the powers of a district; to provide
19 further for the appointment, terms of office, and operation of
20 the board of directors of a district; to clarify and provide
21 further for the assessment of lands within a district by a
22 county or municipality; to provide for the levy of service and
23 user fees and rates by the district with respect to its
24 facilities; to clarify and provide further for remedies in the
25 event of failure to pay assessments; to provide further for
26 the issuance of revenue bonds and temporary revenue bonds by a
27 district and the security and source of payment therefor; to

1 provide for reassessments of land and amendments of existing
2 assessments; to provide that certain amendments to the Alabama
3 Improvement District Act are declarative of existing law and
4 shall have both a prospective and retroactive operation; and
5 to repeal Sections 11-99A-17 and 11-99A-30, Code of Alabama
6 1975.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 11-99A-2, 11-99A-3, 11-99A-4,
9 11-99A-6, 11-99A-8, 11-99A-9, 11-99A-11, 11-99A-12, 11-99A-13,
10 11-99A-15, 11-99A-19, 11-99A-21, 11-99A-36, 11-99A-42, and
11 11-99A-43, Code of Alabama 1975, are amended to read as
12 follows:

13 "§11-99A-2.

14 "In this chapter the following words shall have the
15 following meanings:

16 "(1) APPOINTING GOVERNMENT. The municipality or
17 county that approves the creation of a district and appoints
18 members to the board.

19 "(2) BOARD. The board of directors of a district.

20 "~~(13)~~(3) BONDS. Bonds, warrants, negotiable
21 instruments, and any other evidences of indebtedness, whether
22 or not negotiable.

23 "~~(3)~~(4) CONTIGUOUS. Two tracts of land if touching
24 for a continuous distance of not less than ~~200~~ 60 feet. The
25 term includes tracts of land divided by bodies of water,
26 streets, railroad, or utility rights-of-way, or by land owned
27 by any public person. In determining whether land is

1 contiguous with a municipality, (i) land separated by bodies
2 of water, streets, or railroad, or utility rights-of-way is
3 contiguous even though the bodies of water, streets, or
4 rights-of-way are within the city limits of another
5 municipality and (ii) land separated by land owned by a public
6 person is not contiguous if the land owned by the public
7 person is within the city limits of another municipality.

8 "~~(4)~~ (5) COUNCIL. The governing body of a county or
9 municipality.

10 "~~(5)~~ (6) DISTRICT. A body corporate formed in
11 accordance with this chapter, having the powers granted under
12 this chapter.

13 "~~(6)~~ (7) IMPROVEMENTS. Any improvement to land within
14 a district, or outside a district providing benefit to land
15 within the district, including, without limitation, any of the
16 following:

17 "a. Any system for providing water to the occupants
18 of land within the district, and extensions of any existing
19 water system for providing water, including, without
20 limitation, wells, water treatment facilities, water
21 transportation and distribution lines, water mains, water
22 tanks, pumps, and any other water storage, treatment,
23 purification, and distribution facilities or systems.

24 "b. Sanitary sewer systems and extensions to
25 existing sewer systems, including, without limitation, sewer
26 treatment facilities and sanitary sewer lines pump stations.

1 "c. Storm sewer systems, including extensions to
2 existing storm sewer systems, including drains, aboveground
3 drainage systems, underground drainage systems, sewer lines
4 and mains, and culverts.

5 "d. Utilities providing benefit to property within
6 the district, including, without limitation, customer-owned
7 electrical substations, gas lines, garbage and solid waste
8 disposal plants, and any other utilities and facilities for
9 providing such utilities.

10 "e. Streets, bridges, curbs, gutters, drainage, both
11 above and below ground, grading, on or off street parking,
12 sidewalks, street lighting, lighting for any public place,
13 traffic control systems, traffic lights, signage, guardrails,
14 any and all other improvements for providing transportation
15 within and into or out of or otherwise benefiting the land
16 within the district.

17 "f. Public parks, public lakes, dams, public
18 recreational facilities, including, without limitation,
19 facilities for athletics, golf, and boating, and driving
20 ranges, ballfields, tennis courts, swimming pools, concession
21 stands, and any associated or useful facilities in connection
22 therewith.

23 "g. Flood control dams, dikes, levies, rip rap,
24 embankments, berms, and other improvements to control flooding
25 or erosion.

26 "h. Fire protection facilities, including fire
27 hydrants, fire stations, and fire monitoring equipment.

- 1 "i. Railroad lines and spurs.
- 2 "j. Docks, harbors, wharves, and any related
3 facilities for transferring goods to or from boats, barges,
4 and other forms of water transport.
- 5 "k. Facilities for providing police protection,
6 police or sheriff stations, police or sheriff substations, and
7 security monitoring equipment.
- 8 "l. Schools, school grounds, playgrounds, athletic
9 fields, and cafeterias.
- 10 "m. Landscaping.
- 11 "n. Fountains, distinctive lighting, and signs.
- 12 "o. Acquiring, constructing, improving, widening,
13 narrowing, closing, or rerouting of sidewalks, streets, or
14 their rights-of-way.
- 15 "p. Acquisition, construction, installation, or
16 improvement of pedestrian malls.
- 17 "q. Acquisition and installation of pieces of art.
- 18 "r. Acquisition, construction, or improvement of
19 public libraries.
- 20 "s. Acquisition, construction, or improvement or
21 rerouting of mass transportation facilities.
- 22 "t. Airports, air traffic control, and other air
23 transportation facilities.
- 24 "u. Any improvements benefiting the general public
25 or residents or anticipated residents of the district,
26 including, without limitation, the provision of utilities,
27 improving their conservation areas, mitigation areas, and

1 wildlife habitat, including the maintenance of any plant or
2 animal species, and any related interest in real or personal
3 property, the provision of health and sanitation, hospitals,
4 and other medical facilities, public safety, ~~security,~~
5 ~~facilitating business recruitment, industrial recruitment,~~
6 ~~cultural enhancement,~~ and security, including, but not limited
7 to, guardhouses, fences and gates, electronic
8 intrusion-detection systems, facilities for business,
9 industrial recruitment, and cultural enhancement, clubhouses
10 for social and recreational use, restaurants and food service
11 and dining facilities, and other commercial and retail
12 facilities, the provision of utilities, including, without
13 limitation, facilities for transmission and distribution of
14 natural and manufactured gas, waste collection and disposal,
15 payment of investigation and remediation costs associated with
16 the cleanup of actual or perceived environmental contamination
17 within the district under the supervision or direction of a
18 competent governmental authority, unless the covered costs
19 benefit any person who is an owner within the district and who
20 caused or contributed to the contamination, or otherwise
21 improving the quality of life or the value of property,
22 whether or not otherwise described in this definition or this
23 chapter and whether or not sui generis with the remaining
24 provisions of this definition.

25 "v. Payment of expenses incurred in the
26 establishment, administration, and operation of the district,
27 including reasonable reserves and replacement funds and the

1 cost of issuance of bonds, whether or not incurred before the
2 establishment of the district, including reimbursement of
3 costs paid by private persons to the extent approved by the
4 board.

5 "w. The maintenance, repair, or replacement,
6 extension, extension reconstruction, improvements, capital or
7 otherwise, modification, razing, or other modification of any
8 improvement.

9 "x. Any or all of the above within the territorial
10 boundaries of the district or, to the extent providing benefit
11 to land within the district, outside the district, whether or
12 not within the corporate limits of the municipality or the
13 boundaries of the county creating the district.

14 "Nothing in this chapter shall authorize the use of
15 bonds, assessments, or tax exemptions for the acquisition,
16 equipping, or construction of property to be owned by any
17 person other than a utility company, the district, ~~or~~ another
18 public person, or a private user who shall have acquired, with
19 or without consideration, ownership of the property from the
20 district. By way of example and not limitation, "improvements"
21 shall not include gambling or gaming establishments.

22 "~~(7)~~ (8) MUNICIPALITY. An incorporated city or town
23 in the state.

24 "~~(8)~~ (9) OWNER. The person or persons in whose name
25 property within a district is assessed for ad valorem property
26 tax purposes. Notwithstanding the preceding sentence, in the
27 case of a trust, the owner of the property is the trustee; in

1 the case of an estate, the owner of the property is the
2 executor or administrator; in the case of a minor, the owner
3 of the property is the guardian, or other personal
4 representative. "Owner" only includes the holders of present
5 interests, and not the holders of future interests in
6 property. In the case of land with respect to which a person
7 owns an option to purchase or a contract to purchase, the
8 holder of the option or purchase contract shall be considered
9 the owner, rather than the person holding legal title to the
10 real estate, provided that the person owning an option or real
11 estate contract certifies under oath that the person will
12 purchase real estate in accordance with the option or purchase
13 contract within 30 days after formation of the district and
14 demonstrates to the reasonable satisfaction of the
15 municipality or county that the person is capable of making a
16 purchase.

17 "(10) PRIVATE USER. Any for-profit or not-for-profit
18 corporation; general, limited, or limited liability
19 partnership; limited liability company; trust; estate; natural
20 person; or other for-profit or not-for-profit business entity
21 of any kind.

22 "(9)(11) PUBLIC NOTICE. Notice published in a
23 newspaper of general circulation within the appointing
24 government. If there is no newspaper, at the option of the
25 board or council giving public notice, as appropriate, public
26 notice in a newspaper of general circulation in the appointing
27 government or by posting in three prominent locations within

1 the municipality or county, at least one of which shall be in
2 the city or town hall of the municipality or county courthouse
3 of the county, as applicable. Public notice shall be published
4 in two consecutive weeks commencing at least eight days before
5 the meeting for which public notice is being given.

6 "~~(10)~~(12) PUBLIC PERSON. The United States of
7 America, the state, any county, any municipality, and any
8 public corporation a majority of the members of which are
9 appointed by any public person, and any agency or political
10 subdivision of any public person.

11 "~~(11)~~(13) STATE. The State of Alabama.

12 "~~(12)~~(14) STREET. Any road, highway, alleyway,
13 street, or other public right-of-way.

14 "(15) UTILITY or UTILITY COMPANY. Any private user
15 or public person who operates facilities or provides services
16 described in paragraph a., b., c., or d. of subdivision (7),
17 except facilities for the production, transmission, or
18 distribution of electricity or electric power, and electrical
19 substations of the definition of "improvements."

20 "§11-99A-3.

21 "A hearing described in this chapter may be held
22 only after giving public notice. However, public notice of a
23 hearing to be held during a regularly scheduled meetings
24 meeting of a council is not required. A hearing may be
25 adjourned from time to time until the board or council makes
26 findings by resolution as to the expedience of the matter
27 being considered. ~~Where this chapter requires written personal~~

1 ~~notice of a hearing, notice may be given by deposit in the~~
2 ~~United States mail, first class postage prepaid, no later than~~
3 ~~the eighth day before the date of the hearing.~~

4 "§11-99A-4.

5 "(a) One or more owners of land wishing to form a
6 district in a municipality or a county may petition the
7 municipality or county to form a district as follows:

8 "(1) The owners shall prepare a written petition
9 executed by the owners of all land proposed to be included
10 within the district.

11 "(2) The petition shall include a description of the
12 tract or tracts of land proposed to be included within the
13 district, which may include less than all of any individual
14 tract of land. The description shall be sufficient if it
15 refers to tax assessment tracts in accordance with the tax
16 assessor's numbering or other reference system, by metes and
17 bounds, by subdivision lot, by reference to recorded deeds, or
18 by other reasonable reference method.

19 "(3) The petition shall include a map or plat of the
20 proposed district, showing that, if the district is created,
21 (i) with respect to a petition being submitted to a
22 municipality, the land will be contiguous with land presently
23 within the city or town limits of the municipality, whether or
24 not all the land is presently within the corporate limits of
25 the municipality and (ii) with respect to a petition being
26 submitted to a county, the land will be contiguous.

1 "(4) The petition shall designate no more than three
2 persons to act as agents in representing the owners before the
3 municipality or county. The persons need not be owners of the
4 subject land.

5 "(b) Any land proposed to be included within a
6 district formed by a municipality may not be within the
7 municipal limits of any municipality other than the
8 municipality to which the petition is being made. Any land
9 proposed to be included within a district formed by a county
10 may not be within the municipal limits ~~or the territorial~~
11 ~~jurisdiction under subsection (a) of Section 11-52-30, of any~~
12 ~~municipal planning commission~~ of any municipality except with
13 the consent of that municipality. Any land proposed to be
14 included within a district formed by a county may not be
15 within another county except with the consent of that county.

16 "(c) A petition shall contain a proposed form of
17 articles of incorporation for the proposed district, which
18 shall include the following information:

19 "(1) The name of the district and that the district
20 is organized pursuant to the provisions of this chapter.

21 "(2) The names and mailing addresses of the
22 incorporators.

23 "(3) The name of the appointing government.

24 "(4) The names and addresses of the members of the
25 initial board of directors of the district and their initial
26 terms of office.

1 "(5) The period of duration of the district, which
2 may be perpetual.

3 "(6) The location of the principal office of the
4 district.

5 "(7) Any other provisions not inconsistent with this
6 chapter, including any limitations on the power of the
7 district.

8 "(d) A petition shall contain a proposed name for
9 the district substantially in the form of "_____"
10 Improvement District," which name shall be sufficient to
11 distinguish the district from other districts of the same
12 appointing government.

13 "(e) Upon receipt of a petition, the municipality or
14 county shall confirm that the persons executing the petition
15 are the owners of all land proposed to be included within the
16 district.

17 "(f) If the council considers the formation of a
18 district expedient, the council may, by resolution, approve
19 the formation of the district and the articles of
20 incorporation therefor, and appoint three persons as the
21 initial board of directors of the district.

22 "(g) The three or fewer persons designated by the
23 owners to represent them shall execute and cause to be
24 recorded in the office of judge of probate in the county in
25 which the district exists, and if in more than one county, in
26 all such counties, the articles of incorporation as approved
27 by the appointing government. Upon recordation, the district

1 shall be formed as a body corporate, having the powers stated
2 in this chapter. The acceptance of articles of incorporation
3 for recording by the judge of probate shall be conclusive
4 evidence of the due, legal, and valid incorporation of the
5 district in all courts.

6 "§11-99A-6.

7 "Any district shall have the following powers, in
8 addition to those stated elsewhere in this chapter:

9 "(1) To have perpetual existence, subject to
10 termination as herein provided.

11 "(2) To have and use a corporate seal, but the use
12 of a corporate seal on any document shall not be required for
13 the validity of a document or the due execution and delivery
14 thereof.

15 "(3) To sue and to be sued and to be a party to
16 suits, actions, and proceedings, but subject to the
17 limitations on liability and the immunity granted in this
18 chapter.

19 "(4) To enter into contracts and agreements
20 affecting the affairs of the district, including contracts
21 with the United States of America and any other public person.

22 "(5) To borrow money and ~~to incur indebtedness and~~
23 ~~to evidence the same by bonds, all without an election issue~~
24 bonds, certificates, warrants, notes, or other evidence of
25 indebtedness as hereinafter provided, without an election; to
26 levy the assessments as may be authorized under this chapter
27 or otherwise at law; and to charge, collect, and enforce

1 rates, fees, and other user charges as may be authorized under
2 this chapter.

3 "(6) To acquire and dispose of land, real property,
4 personal property, and interests therein of any nature.

5 "(7) To acquire, construct, install, and operate
6 improvements and all property, rights, or interests incidental
7 or pertinent thereto, and to dispose of real and personal
8 property and any interest therein, including leases and
9 easements and options to purchase in connection therewith;
10 provided, however, that nothing in this chapter shall
11 authorize a district to construct, own, or operate a system
12 for the generation, transmission, or distribution of electric
13 power, cable television, or Internet system, or
14 telecommunications utility or to be in the business of
15 providing electric energy, cable television, Internet, or
16 telecommunications services.

17 "(8) To refund any bonds of the district without an
18 election.

19 "(9) To have the management, control, and
20 supervision of all the business and affairs of the district,
21 and of the acquisition, construction, installation, and
22 operation of improvements therein of the district.

23 "(10) To enter into contracts with one or more
24 owners of property within the district relating to the
25 acquisition, construction, provision, or installation of
26 improvements. Without limitation, contracts may require owners
27 to connect their properties with gas, water, or sewer mains or

1 other utilities in the streets in front of, at the rear of, or
2 otherwise adjacent or near to their properties prior to the
3 paving or final paving of roads on which their properties
4 front. In addition, to the extent not subject to a bid law,
5 contracts may specify the improvements to be made in general
6 or particular terms, the choice of construction companies or
7 other contractors, consultants, or professionals, choice of
8 underwriter, trustee, fiscal agent, attorneys, engineers, and
9 all other matters relating to the acquisition, construction,
10 and installation of the improvements, the levying of
11 assessments, or the issuance of bonds.

12 "(11) To contract with any public person for the
13 purpose of providing any materials or any work with respect to
14 the acquisition, installation, provision, or construction of
15 improvements, and any contracting with any public person shall
16 be exempt from any laws relating to the advertising and award
17 of construction contracts and purchase contracts, including,
18 without limitation, Article 3 of Chapter 16 of Title 41.

19 "(12) To purchase liability and other forms of
20 insurance.

21 "(13) To hire and compensate employees and
22 contractors, to provide retirement and other forms of deferred
23 compensation, to provide fringe benefits, and to otherwise
24 contract with employees and contractors.

25 ~~"(14) Except to the extent limited in the district's~~
26 ~~articles of incorporation, to have and exercise the power of~~
27 ~~eminent domain in the manner provided by law to obtain private~~

1 ~~property for the purposes of the district including, without~~
2 ~~limitation, proceedings under Chapter 1A of Title 18, as a~~
3 ~~condemner. However, a district may not exercise the power of~~
4 ~~eminent domain without the consent of the council of the~~
5 ~~appointing government. To exercise within the district, or~~
6 ~~beyond the district with prior approval by resolution of the~~
7 ~~governing body of the county if the taking will occur in an~~
8 ~~unincorporated area or with prior approval by resolution of~~
9 ~~the governing body of the municipality if the taking will~~
10 ~~occur within a municipality, the right and power of eminent~~
11 ~~domain, pursuant to Chapter 1A of Title 18, over any property~~
12 ~~within the state, except municipal, county, state, and federal~~
13 ~~property, for the benefit of the residents of, or for the uses~~
14 ~~and purposes of, the district, relating to those improvements~~
15 ~~or facilities defined in paragraphs a., b., c., d., e., g.,~~
16 ~~h., and k. of subdivision (7) of Section 11-99A-2, or which~~
17 ~~provide health care and medical facilities, as long as the~~
18 ~~improvements or facilities are owned by the district or a~~
19 ~~public person or a combination thereof.~~

20 "(15) To adopt and amend bylaws not in conflict with
21 the articles of incorporation and the laws of this state.

22 "(16) To enter into contracts and agreements with
23 any ~~landowner~~, owner, any public person, or any other person
24 concerning the installation, construction, provision, or
25 acquisition of improvements by the district or any public
26 person, assessment of the costs thereof and application of
27 proceeds of such assessment, the waiver or limitation of legal

1 rights, or any other matter concerning the district or the
2 improvements.

3 "(17) To have and exercise all rights and powers
4 necessary, convenient, proper, or incidental to or implied
5 from the specific powers granted in this chapter. A specific
6 power shall not be considered as a limitation upon any power
7 necessary, useful, or appropriate to carry out the purposes,
8 powers, and intent of this chapter.

9 "(18) To allow utilities or similar entities to use
10 any rights-of-way on which the district is developing any
11 improvements or has developed any improvements.

12 "(19) To take official action with respect to the
13 reimbursement of costs with bond proceeds.

14 "(20) To apply for and use grants or loans of money
15 or other property from the United States, the state, a unit of
16 local government, or any person for any district purposes and
17 to enter into agreements required in connection therewith; and
18 to hold, use, and dispose of the moneys or property for any
19 district purposes in accordance with the terms of the gift,
20 grant, loan, or agreement relating thereto.

21 "(21) To lease as lessor or lessee to or from any
22 person, firm, corporation, association, or body, public or
23 private, any facilities, improvements, or projects of the type
24 that the district is authorized to undertake and facilities or
25 property of any nature for the use of the district to carry
26 out any of the purposes authorized by this chapter.

1 "(22) To raise, by user charges or fees authorized
2 by the board, amounts of money which are necessary for the
3 conduct of the district activities and services and to enforce
4 the receipt and collection of the user charges and fees in the
5 manner prescribed by the board not inconsistent with law.

6 "~~(20)~~(23) To enter into contracts, agreements,
7 options, leases, deeds, and other instruments, and to take
8 other actions as may be necessary or convenient to accomplish
9 any purpose for which a district is organized or to exercise
10 any power expressly granted hereunder.

11 "~~(21)~~(24) To dedicate or grant streets, sidewalks,
12 parks, any other improvements, easements, rights-of-way, and
13 other interests in property to the public, to a public person,
14 or to a utility provided that nothing herein shall require a
15 public person to accept the dedication without an affirmative
16 act of acceptance by the public person.

17 "(25) To cooperate with, contract with, or make
18 agreements with, other governmental agencies, including
19 without limitation, an appointing government, as may be
20 necessary, convenient, incidental, or proper in connection
21 with any of the powers, duties, or purposes of a district or
22 of an appointing government authorized by this chapter.

23 "§11-99A-8.

24 "(a) Each board shall have a chair, a secretary, and
25 a treasurer or a secretary-treasurer, and may have a
26 vice-chair and other officers as the board may determine from
27 time to time.

1 "(b) All proceedings of a board and of all
2 committees of the board shall be recorded in minutes, which
3 shall be maintained and available for inspection by the
4 appointing government.

5 "(c) All funds of a district shall be deposited or
6 invested as directed by the board. However, funds received by
7 the district from a public person and not from assessments
8 shall be deposited or invested only in a manner as a public
9 person may invest or deposit funds.

10 "(d) Any member of a board and any officer may call
11 a special meeting of the board as may be permitted by the
12 bylaws or resolutions of the board. Personal notice may be
13 waived by any members of the board before, at, or after a
14 meeting by waiver in writing signed by the person giving the
15 waiver. The attendance of any member of the board at any
16 meeting of the board shall constitute a waiver of notice
17 unless attendance is made exclusively for the purpose of
18 protesting the means of calling the meeting, and the person
19 otherwise does not participate in the meeting.

20 "(e) Any meeting that is called at which a quorum is
21 not present may be adjourned by announcement at the meeting of
22 the date to which it is adjourned, and may be reconvened at a
23 time as a quorum shall become available.

24 "(f) A quorum of a board shall consist of a majority
25 of the members of the board. Actions of the board shall be
26 taken by a majority of those present, if a quorum is present,

1 unless a higher percentage is provided for in the articles of
2 incorporation or bylaws.

3 "(g) The board may employ and fix the compensation
4 of a district manager. The district manager shall not be a
5 member of the board. The district manager shall have charge
6 and supervision of the improvements and works of the district
7 and shall be responsible for preserving and maintaining any
8 improvement or facility constructed or erected pursuant to
9 this chapter, for maintaining and operating the equipment
10 owned by the district, and for performing other duties as may
11 be prescribed by the board. It shall not be a conflict of
12 interest for a board member or the district manager or another
13 employee of the district to be a stockholder, officer, member,
14 partner, or employee of a landowner. The district manager may
15 hire or otherwise employ and terminate the employment of other
16 persons, including, without limitation, professional,
17 supervisory, and clerical employees, as may be necessary and
18 authorized by the board. The compensation and other conditions
19 of employment of the officers and employees of the district
20 shall be as provided by the board.

21 "(h) The board may designate a person as treasurer
22 of the district. The treasurer shall have charge of the funds
23 of the district. The board may give the treasurer additional
24 powers and duties as the board may deem appropriate and may
25 fix the compensation of the treasurer. The board may require
26 the treasurer to give a bond in the amount, on the terms, and
27 with the sureties as may be deemed satisfactory to the board

1 to secure the performance by the treasurer of his or her
2 powers and duties.

3 "(i) The district manager, or the board, shall
4 prepare a proposed budget for each fiscal year of the
5 district. The proposed budget shall include an estimate of all
6 necessary expenditures of the district for the fiscal year and
7 an estimate of income to the district from the assessments and
8 any other sources of income of the board. The board shall
9 approve the budget by resolution, which resolution shall
10 provide for a hearing on the budget as approved.

11 "§11-99A-9.

12 "(a) ~~A board shall have~~ The district shall have a
13 board of directors. All powers of the district shall be vested
14 in the board of directors which shall consist of the number of
15 members specified in the articles of incorporation, but not
16 less than three nor more than ~~11~~. ~~Members of the board~~ seven.
17 The directors shall be appointed by the appointing government.
18 The articles of incorporation shall specify that the members
19 of the board of directors shall serve for staggered terms,
20 with one-third, or as near to one-third as is practical, of
21 the initial members serving for ~~one year~~ four years, with
22 one-third, or as near to one-third as is practical, of the
23 initial members to serve for ~~two~~ five years, and with
24 one-third, or as near to one-third as is practical, of the
25 initial members to serve for ~~three~~ six years. Thereafter, the
26 successors to members of the board of directors shall serve
27 for ~~three-year~~ six-year terms. The proceedings of the

1 appointing government by which members of the board of
2 directors are appointed shall specify the term for which ~~the~~
3 each appointment is made. Upon the expiration of the term of
4 office of any member of the board, the person whose term is
5 expiring shall remain a member of the board until his or her
6 successor ~~has~~ shall have been duly appointed by the appointing
7 government. Members of the board ~~need not be owners,~~ of
8 directors shall be natural persons appointed by the appointing
9 government from the following groups of persons, in the order
10 listed, unless in the judgment of the appointing government,
11 for good cause shown, there are no persons in any group who
12 are both qualified and available to serve as directors of the
13 district: First, persons who shall have been nominated by the
14 then current board of directors, and second, persons who are
15 both owners of property in, and residents of, the district.
16 All directors shall be eligible for reappointment. An officer
17 or employee of the appointing government or of the county in
18 which the district, or any part thereof, is located may be a
19 member of the board of directors of a district, provided, at
20 least one member of the board of directors of the district
21 shall be a person who is not an officer or employee of the
22 appointing government or the county. Members of the board of
23 directors of the district may be, but are not required to be,
24 owners of land within the district or residents, electors, or
25 taxpayers of the appointing government ~~or the state,~~ the
26 county in which the district, or any part thereof, is located,
27 or the state.

1 "(b) No vacancy in the membership of the board of
2 directors or the voluntary disqualification or abstention of
3 any member thereof shall impair the right of a quorum to
4 exercise all of the powers and duties of the board.

5 "(c) Any director of a district may be impeached and
6 removed from office in the same manner and on the same grounds
7 provided by Section 175 of the Constitution of Alabama of
8 1901, as amended, or any successor provision thereof, and the
9 general laws of the State of Alabama for impeachment and
10 removal of officers referenced therein.

11 "(d) All proceedings of the board of directors shall
12 be reduced to writing by the secretary thereof and maintained
13 in the permanent records of the board. Copies of the
14 proceedings, when certified by the secretary of the board,
15 shall be received in all courts as evidence of the matters
16 therein certified.

17 "§11-99A-11.

18 ~~"A district may petition the appointing government~~
19 ~~to assess some or all of the land within the district for the~~
20 ~~purpose of acquiring, constructing, or installing~~
21 ~~improvements, in accordance with the following procedure:~~

22 "(a) For the payment of all or any part of the costs
23 of improvements, whether the improvements are provided by the
24 district or by another public person, the maintenance thereof,
25 and the administration and operation of the district, the
26 district may provide for the assessment of all or any part of
27 the land within the district which is specifically benefited

1 or increased in value by such improvements, by adoption of a
2 resolution setting forth:

3 "(1) The board shall prepare plans for the
4 acquisition, construction, or installation of the
5 improvements. The plans shall include a reasonable description
6 of the improvements and an estimate of the cost of the
7 improvements. A general description of the nature and general
8 location of the improvements.

9 "(2) A designation of the land upon which the
10 assessment shall be levied, and in describing the lands it
11 shall be sufficient to describe them as "all lots and lands
12 adjoining and contiguous or bounding or abutting upon the
13 improvements, or specially benefited thereby, and further
14 designated by an assessment roll or plat."

15 "(3) For purposes of determining the maximum
16 assessments for any improvements:

17 "a. The estimated cost of the improvements, which
18 cost may include the estimated costs of acquiring, installing,
19 constructing, extending, improving, renovating, or providing
20 any of the improvements; the costs of plans, specifications,
21 engineering studies, and accounting, consulting, and legal
22 services; any reasonable reserve funds for contingencies or
23 for debt service; for the amount of interest accruing during
24 the construction period and for up to five years thereafter;
25 for the costs of issuance of bonds for improvements; the costs
26 of levying the assessments; the costs of forming the district;
27 the costs of designing and planning and maintaining the

1 improvements; all costs incurred with respect to levy,
2 collection, and enforcement of payment of the assessments,
3 revenues, fees, rates, and user charges, and for all other
4 incidental costs, even though incurred before the formation of
5 the district or before the issuance of bonds.

6 "b. The estimated maximum annual costs of
7 maintaining and repairing the improvements and the estimated
8 maximum annual costs of administration, and operation of the
9 district.

10 "(4) The manner in which, or the methodology by
11 which, the assessments shall be made.

12 "(b) (1) Upon adoption of the resolution, the
13 district shall cause to be made a preliminary assessment roll
14 in accordance with the method of assessment set forth in the
15 resolution, which assessment roll shall set forth lots or
16 lands assessed and the amount of benefit to, and assessment
17 against, each lot or parcel of land, or cause to be determined
18 the methodology by which the assessments shall be made.

19 "(2) An assessment may be levied on property in
20 proportion to, or based upon, front or square footage of each
21 parcel, acreage, or other methodology determined by the
22 district and in accordance with this chapter.

23 ~~"(2) The proposed assessment of each tract in the~~
24 ~~district, based on the estimated increase in value of each~~
25 ~~tract resulting from~~

26 "(3) The amount of each assessment shall not exceed
27 the increased value of the property by reason of the special

1 benefits derived from the ~~proposed improvements, and~~
2 ~~consistent with Section 223 of the Constitution of Alabama of~~
3 ~~1901 improvements for which the assessment was made, as~~
4 ~~determined by the district.~~

5 ~~"(3) The petition shall further include either a~~
6 ~~document executed by each owner within the district approving~~
7 ~~the petition, or a certification that an election has been~~
8 ~~held within the district, and that the owners of 51 percent or~~
9 ~~more of the land within the district that will be subject to~~
10 ~~assessment and 51 percent or more of the residents of the~~
11 ~~district have voted in favor of the assessment.~~

12 ~~"(4) Except as provided in Section 11-99A-47, the~~
13 ~~district must comply with all state, county, and municipal~~
14 ~~laws, rules, and regulations and the district must obtain all~~
15 ~~approvals that may be required by the appointing government or~~
16 ~~the government within which the district is located.~~

17 ~~"Upon receipt of the petition by the council, the~~
18 ~~council shall determine what approvals may be required by the~~
19 ~~appointing government in addition to the approval of the~~
20 ~~council, including, but not limited to, approval of zoning,~~
21 ~~subdivision, fire regulations, and other ordinances, rules,~~
22 ~~codes, and regulations of the appointing government, and if~~
23 ~~other approvals are required, the appointing government shall~~
24 ~~forward the petition, or applicable portions thereof, to the~~
25 ~~appropriate boards and agencies to consider whether to grant~~
26 ~~the petition and to notify the district of the necessity of~~
27 ~~obtaining approvals. The petition shall be held by the~~

1 ~~appointing government in abeyance until all approvals as may~~
2 ~~be required have been received, or variances or exceptions~~
3 ~~granted.~~

4 ~~"Failure to notify the district of any required~~
5 ~~approval shall not relieve the district from complying with~~
6 ~~the required approval. No cause of action may be maintained~~
7 ~~against the appointing government, its officers, employees,~~
8 ~~servants, or agents for failure to notify the district of any~~
9 ~~required approval.~~

10 ~~"(5) Upon receipt of all required approvals,~~
11 ~~variances, or exceptions, the council shall conduct a hearing~~
12 ~~with respect to the petition, and if considered expedient by~~
13 ~~the council, the council may preliminarily assess the property~~
14 ~~within the district as proposed in the petition and shall~~
15 ~~further take any actions with respect to tax exemptions~~
16 ~~considered expedient under subsection (c) of Section~~
17 ~~11-99A-20.~~

18 ~~"(6) In the event that the board determines that it~~
19 ~~is necessary to amend its petition to the appointing~~
20 ~~government in order to conform to its rules, regulations, and~~
21 ~~ordinances, or to obtain variances and exceptions as may be~~
22 ~~appropriate, or to obtain approval of the petition by the~~
23 ~~council, the board may do so.~~

24 "(4) The board may prepare either of the following:

25 "a. An assessment in an aggregate amount for the
26 total costs determined under paragraph a. and b. of
27 subdivision (3) of subsection (a).

1 "b.1. An assessment in an aggregate amount for the
2 total costs determined under paragraph a. of subdivision (3)
3 of subsection (a).

4 "2. An assessment in an aggregate amount for the
5 total costs determined under paragraph b. of subdivision (3)
6 of subsection (a).

7 "(c) Upon adoption of the resolution authorizing the
8 assessment and determination of the preliminary assessment
9 roll or methodology therefor, the district shall:

10 "(1) Obtain the written consent for the preliminary
11 assessment and assessment methodology from each owner within
12 the district whose property will be subject to the assessment;
13 or

14 "(2)a. By resolution, which may be the resolution
15 referenced in subsection (a), determine a time, date, and
16 place in which the owners of the property to be assessed may
17 appear and be heard by the district as to the advisability of
18 the improvements, the costs thereof, the manner and payment of
19 the assessments, and the amount to be assessed against each
20 property so improved.

21 "b. Deliver, by United States mail, first class,
22 postage prepaid, notice in writing to each owner of property
23 to be assessed, to the last known address that the district
24 determines to be reliable, which may be the address of the
25 owner as shown in the tax assessment records of the tax
26 assessor or revenue commissioner of the county in which the
27 property to be so assessed is located, not less than 30 days

1 prior to the date fixed for the hearing. The notice shall
2 state the time, date, place, and purpose of the hearing, the
3 amount of the preliminary assessment or the methodology by
4 which the preliminary assessment shall be determined. The
5 notice shall be accompanied by a copy of the resolution
6 adopted by the district under subsection (a). The failure of
7 the district to mail the notices or failure of any owner to
8 receive the notice shall not invalidate any proceeding
9 hereunder.

10 "c. Publish, in a newspaper of general circulation
11 in each county in which there is located land within the
12 district to be assessed, once a week for three consecutive
13 weeks before the hearing, notice of the time, date, place, and
14 purpose of the hearing and contact information regarding the
15 amount of the assessments or the methodology with respect
16 thereto, a description of the property to be assessed, and the
17 improvements.

18 "d. At the time, date, and place of the hearing,
19 meet, in public session, and hear the testimony of the
20 affected owners.

21 "e. If the district chooses to proceed with the
22 assessments, by resolution, make and confirm the preliminary
23 assessments in the amounts and on the lots and lands, or the
24 methodology therefor, as the district shall then determine.

25 "(3) Prepare a transcript of the documents,
26 instruments, notices, and proceedings made, had, given, and
27 taken by the district under subsections (a), (b), and either

1 (c) (1) or (c) (2), demonstrating substantial compliance
2 therewith, which transcript shall constitute prima facie
3 evidence of the matters therein and be referred to herein as
4 the transcript of assessment proceedings.

5 "(d) Upon preparation of the transcript of
6 assessment proceedings, the district shall petition the
7 appointing government to confirm and make final the
8 preliminary assessment roll, or methodology with respect to
9 the assessments, determined by the district, as set forth in
10 the transcript of assessment proceedings. The petition shall
11 contain all of the following:

12 "(1) The request of the district that the appointing
13 government confirm and make final the preliminary assessment
14 roll, or methodology with respect to the assessments, set
15 forth in transcript of assessment proceedings.

16 "(2) A description of the lands or lots to be
17 assessed, which may be made by reference to the transcript of
18 assessment proceedings.

19 "(3) The amount of the preliminary assessments,
20 which may be made by reference to the transcript of assessment
21 proceedings.

22 "(4) A copy of the transcript of assessment
23 proceedings certified by the district.

24 "(e) As soon as possible after receipt by the
25 appointing government of the petition, the appointing
26 government shall conduct a hearing with respect to the
27 petition. If considered expedient by the council, the council

1 shall confirm and make final the preliminary assessment roll,
2 or the methodology by which the preliminary assessments shall
3 be made, as provided in the transcript of assessment
4 proceedings, whereupon the preliminary assessments and
5 methodology therefor shall stand confirmed and be and remain
6 legal, valid, and binding liens upon the property upon which
7 the assessments are made, as provided in this chapter.
8 Notwithstanding any provision in this chapter to the contrary,
9 the district may credit to each of the assessments the
10 difference in the assessment as originally approved and
11 confirmed and the proportionate part of the actual cost of the
12 improvements to be paid by the assessments as finally
13 determined upon completion of the improvements. In no event
14 shall the resulting assessments exceed the amount of benefits
15 originally assessed.

16 "(f) The district shall maintain a record of the
17 final assessments, as determined under subsection (e), or in
18 accordance with the methodology approved under subsection (e),
19 in a special book and the record of the lien of the
20 assessments in the book shall be prima facie evidence of the
21 validity of the liens.

22 "(g) If any assessment made under this chapter shall
23 be in whole or in part annulled, vacated, or set aside by any
24 court, or if the district shall be satisfied that any
25 assessment is so irregular or defective that the same cannot
26 be enforced or collected, or if the district shall have
27 omitted to make the assessment when it might have done so, the

1 district shall take all necessary steps to cause a new
2 assessment to be made for the whole or any part of any
3 improvement or against any property benefited by any
4 improvement, and in case the second assessment shall be
5 annulled, the district may obtain and make other assessments
6 until a valid assessment shall be made.

7 "(h) Any informality or irregularity in the
8 proceedings in connection with the levy of any assessment
9 under this chapter shall not affect the validity of the
10 assessment where the assessment roll has been confirmed by the
11 appointing government. The assessment as finally approved and
12 confirmed shall be competent and sufficient evidence that the
13 assessment was duly levied, that the assessment was duly made
14 and adopted, and that all other proceedings for the adoption
15 of the assessment roll were duly had, taken, and performed as
16 required by this chapter, and no variance from the directions
17 hereunder shall be held material unless it be clearly shown
18 that the party objecting thereto was materially injured
19 thereby.

20 "(i) Anything in this chapter to the contrary
21 notwithstanding, the board in any fiscal year and without
22 notice to or the consent of the appointing government, may
23 adjust either that amount of any assessment prepared in
24 accordance with paragraph a. of subdivision (4) of subsection
25 (b) allocable to maintenance and repair of improvements and
26 administration and operation of the district, or that amount
27 of any assessment prepared in accordance with paragraph b. of

1 subdivision (4) of subsection (b), in each case based upon the
2 budget for such fiscal year adopted by the board pursuant to
3 subsection (i) of Section 11-99A-8. No adjustment in any
4 assessment pursuant hereto shall cause the aggregate amount of
5 such assessment to exceed the maximum amount thereof approved
6 by the appointing government under subsection (e) of this
7 section.

8 "(j) The district shall make available to any owner
9 of any land within the district which is subject to an
10 assessment for the costs of improvements, or for the
11 maintenance of improvements, upon written request and at the
12 expense of such owner all of the following:

13 "(1) The contracts and documents pursuant to which
14 any bonds have been issued that are secured by and payable, in
15 part, by the assessment.

16 "(2) A reasonable description of the improvements
17 with respect to which the assessment has been made for the
18 costs or maintenance thereof.

19 "(3) For each fiscal year, an accounting of the
20 amounts of assessments collected each year for maintenance and
21 operation of the district, the income from investment of such
22 amounts, if any, and the use of such amounts.

23 "§11-99A-12.

24 ~~"Upon the making of the preliminary assessment, the~~
25 ~~board shall prepare contracts and bid specifications, and~~
26 ~~shall bid or otherwise contract for the acquisition,~~
27 ~~construction, or installation of all the improvements as~~

1 ~~specified in the petition.~~ In general, all contracts shall be
2 bid in accordance with applicable state law. However, if an
3 improvement or a portion of an improvement is to be paid for
4 exclusively with funds provided through assessments under this
5 chapter, or by revenues, rates, fees, licenses, or other user
6 charges with respect to improvements, or by the proceeds of
7 temporary bond or bonds payable from assessments, revenues,
8 rates, fees or licenses, or other user charges, or by the
9 owners or on behalf of the owners, or any other source, and
10 not from any revenues, taxes, or funds of the appointing
11 government or any public person, the contracting for the
12 acquisition, construction, or installation of the improvement
13 or portion thereof shall be exempt from all laws relating to
14 the advertising and award of construction contracts and
15 purchase contracts, including, without limitation, Title 39
16 and Article 3 of Chapter 16 of Title 41, and shall be
17 performed in the sole discretion of the board. ~~All contracts~~
18 ~~and bids shall be contingent upon the issuance of a final~~
19 ~~assessment by the appointing government as hereinafter~~
20 ~~provided.~~

21 "Notwithstanding the foregoing, the board may
22 contract for and commence the acquisition, construction, or
23 installation of one or more improvements or a portion of one
24 or more improvements in advance of a preliminary or final
25 assessment, provided that the contract for the acquisition,
26 construction, or installation is exempt from laws relating to

1 ~~the advertising and award of construction contracts and~~
2 ~~purchase contracts under this section.~~

3 "§11-99A-13.

4 ~~"Upon the entry into contingent contracts or receipt~~
5 ~~of contingent bids, the board shall submit to the council a~~
6 ~~recommended final calculation of the cost of acquiring,~~
7 ~~installing, or constructing the improvements. Upon receipt of~~
8 ~~the calculation, the council shall, if it considers it~~
9 ~~expedient, declare the assessment final, with adjustments as~~
10 ~~may have been recommended by the board. The final assessment~~
11 ~~of each tract in the district shall be based on the estimated~~
12 ~~increase in value of each tract resulting from the special~~
13 ~~benefits derived from the improvements, and consistent with~~
14 ~~Section 223 of the Constitution of Alabama of 1901. If the~~
15 ~~council considers the recommendation inexpedient, the council~~
16 ~~shall advise the board of the reasons for its determination,~~
17 ~~and the board may submit a revised recommendation to the~~
18 ~~appointing government.~~

19 "(a) A district may prescribe, fix, establish, and
20 collect rates, fees, rentals, licenses, or other charges,
21 hereinafter sometimes referred to as revenues, and to revise
22 the same from time to time, for the use, repair, and
23 maintenance of the facilities, improvements, and services or
24 furnished by the district; to recover the costs of making
25 connection with any district facility or system; and to
26 provide for reasonable penalties against any user or property

1 for any rates, fees, rentals, or other charges that are
2 delinquent.

3 "(b) No rates, fees, rentals, licenses, or other
4 charges for any of the facilities, improvements, or services
5 of the district shall be fixed until after a public hearing at
6 which all the users of the proposed facility, improvements, or
7 services or owners, tenants, or occupants to be served thereby
8 and all other interested persons shall have an opportunity to
9 be heard concerning the proposed rates, fees, rentals,
10 licenses, or other charges. Notice of the public hearing
11 setting forth the proposed schedule or schedules of rates,
12 fees, rentals, licenses, and other charges shall be published
13 in a newspaper in the county of general circulation in the
14 district at least once and at least 10 days prior to the
15 public hearing. After the hearing, the schedule or schedules,
16 either as initially proposed or as modified or amended, may be
17 finalized and adopted. A copy of the schedule or schedules of
18 the rates, fees, rentals, licenses, or charges as finalized
19 and adopted shall be kept on file in an office designated by
20 the board and shall be open at all reasonable times to public
21 inspection. The rates, fees, rentals, licenses, or charges so
22 fixed for any class of users or property served shall be
23 extended to cover any additional users or properties
24 thereafter served which shall fall in the same class, without
25 the necessity of any notice or hearing.

26 "(c) The rates, fees, rentals, licenses, and charges
27 shall be uniform for users of the same class, and when

1 appropriate may be based or computed either upon the amount of
2 service furnished, upon the number of average number of
3 persons residing or working in or otherwise occupying the
4 premises served, or upon any other factor affecting the use of
5 the facilities furnished, or upon any combination of the
6 foregoing factors, as may be determined by the board on an
7 equitable basis.

8 "(d) The rates, fees, rentals, licenses, or other
9 charges prescribed shall be such as will produce revenues,
10 together with any other assessments, revenues, or funds
11 available or pledged for those purposes, at least sufficient
12 to provide for the items hereinafter listed, but not
13 necessarily in the order stated:

14 "(1) To provide for all expenses of operation and
15 maintenance of the facility or service.

16 "(2) To pay when due all bonds and interest thereon
17 for the payment of which the revenues are, or shall have been,
18 pledged or encumbered, including reserves for the purpose.

19 "(3) To provide for any other funds which may be
20 required under the resolution or resolutions authorizing the
21 issuance of bonds pursuant to this chapter.

22 "(e) The board may contract for the use of the
23 improvements and projects of the district and with respect to
24 the services and facilities furnished or to be furnished by
25 the district.

26 "(f) In the event that any rates, fees, rentals,
27 licenses, charges, or delinquent penalties are not paid when

1 due and are in default for 60 days or more, the unpaid balance
2 and all interest accrued, together with reasonable attorney's
3 fees and costs, may be recovered by the district in a civil
4 action.

5 "(g) In the event the fees, rentals, or other
6 charges for water services, sewer services, or both, are not
7 paid when due, the board, under reasonable rules and
8 regulations as the board may adopt, may discontinue and shut
9 off both water and sewer services until the fees, rentals, or
10 other charges, including interest, penalties, and charges for
11 the shutting off and discontinuance and the restoration of the
12 water and sewer services, or both, are fully paid. For such
13 purposes, the board may enter on any lands, waters, or
14 premises of any person, firm, corporation, or body, public or
15 private, within the district limits. The delinquent fees,
16 rentals, or other charges, together with interest, penalties,
17 and charges for the shutting off and discontinuance and the
18 restoration of the services and facilities and reasonable
19 attorney's fees and other expenses, may be recovered by the
20 district, which may also enforce payment of the delinquent
21 fees, rentals, or other charges by any other lawful method of
22 enforcement.

23 "(h) At the option of the board, the board may
24 petition the appointing government to confirm and levy any
25 rates, fees, rentals, licenses, or other charges proposed by
26 the board in accordance with the foregoing provisions of this
27 section. The confirmation and levy of any rates, fees,

1 rentals, or charges by the appointing government shall be made
2 at its sole discretion.

3 "§11-99A-15.

4 "(a) A district may borrow money by the issuance of
5 bonds, without limit as to aggregate principal amount, which
6 bonds shall be ~~revenue obligations, payable exclusively out of~~
7 ~~assessments levied on land within the district, and the bonds~~
8 ~~shall not be supported by the full faith and credit of the~~
9 ~~appointing government. However, the bonds may be secured by~~
10 ~~additional revenues, guarantees, pledges, letters of credit,~~
11 ~~or other credit enhancements~~ limited or special obligations of
12 the district, payable solely from and secured by any, or any
13 combination of, the following property and interests in
14 property as may be provided by the district, the owner of any
15 property within the district, any public person, or any other
16 person, to the extent provided in the proceedings of the board
17 with respect to the ~~issuance of the bonds-:~~

18 "(1) Assessments on any land within the district.

19 "(2) Mortgages on, pledges of, and security
20 interests in, any real or personal property, all of which
21 shall be subject to foreclosure or to the exercise of remedies
22 under the Alabama Uniform Commercial Code or otherwise at law
23 or in equity.

24 "(3) Funding agreements and guaranty agreements by
25 any public person or any other person.

26 "(4) Letter of credit, insurance, and bond purchase
27 agreements.

1 "(5) Revenues, receipts, fees, rates, or user
2 charges, from or with respect to any improvements or other
3 property of the district or any other person.

4 "(6) Other security, collateral, or credit
5 enhancement.

6 "(b) The district may covenant with the holders of
7 the bonds payable from assessments that it will diligently and
8 faithfully enforce and collect all the assessments and
9 interest and penalties thereon; to foreclose the assessment
10 after the assessment liens have become delinquent, and apply
11 the proceeds derived from the foreclosure, including interest
12 and penalties, as provided in the agreements and proceedings
13 under which the bonds were issued; and to make any other
14 covenants deemed necessary or advisable in order to properly
15 secure the holders of the assessment bonds.

16 "(c) The district may issue and deliver bonds at any
17 time and from time to time. The bonds shall be in such form
18 and denominations and of the tenor and maturities, shall
19 contain provisions not inconsistent with the provisions of
20 this chapter, and shall bear the rate or rates of interest, or
21 no interest, computed, compounded, if determined by the board
22 to be advantageous, payable at the time or times, and
23 evidenced in the manner, as may be provided in the proceedings
24 of the board with respect to the bonds. Bonds of a district
25 may be sold at either public or private sale in the manner and
26 at the price or prices, whether payable in money, or other
27 evidences of indebtedness, or property, or in exchange for

1 services, or any combination thereof, and at the time or
2 times, as may be determined by the board to be most
3 advantageous. The principal of and interest on any bonds
4 issued or obligations assumed by a district may thereafter at
5 any time, whether before, at or after maturity of any
6 principal and any such interest, and from time to time be
7 refunded by the issuance of refunding bonds of a district,
8 which may be sold by a district at public or private sale at
9 the price or prices, whether payable in money, or other
10 evidences of indebtedness, or property, or in exchange for
11 services, any combination thereof, as may be determined by its
12 board to be most advantageous or which may be exchanged for
13 the bonds or other obligations to be refunded. A district may
14 pay all expenses, premiums, and commissions which the board
15 may deem necessary and advantageous in connection with any
16 financing done by it. All bonds issued by a district shall be
17 construed to be negotiable instruments although payable solely
18 from a specified source.

19 "(b) (d) Bonds of a district shall be signed by its
20 chair and attested by its secretary, the seal of the district
21 may be affixed thereto, and any interest coupons applicable to
22 the bonds shall be signed by the chair; provided that: (1) a
23 facsimile of the signature of the officers may be printed or
24 otherwise reproduced on any bonds in lieu of being manually
25 subscribed thereon, (2) a facsimile of the seal of the
26 district may be printed or otherwise produced on any bonds in
27 lieu of being manually affixed thereto, and (3) a facsimile of

1 the chair's signature may be printed or otherwise reproduced
2 on any interest coupons in lieu of being manually subscribed
3 thereon; provided that the bonds have been manually
4 authenticated by a transfer agent of the bond issue. Delivery
5 of the bonds executed shall be valid notwithstanding any
6 changes in officers or in the seal of the district after the
7 signing and sealing of the bonds.

8 "~~(c)~~ (e) Bonds may be issued for the ~~cost~~ costs of
9 acquiring, installing, ~~and constructing,~~ the improvements,
10 maintaining, repairing, extending, improving, renovating, or
11 providing any of the improvements; the costs of plans,
12 specifications, engineering studies, and accounting,
13 consulting, and legal services; any reasonable reserve funds
14 for contingencies or for debt service~~;~~ ; for interest accruing
15 during the construction period and for up to five years
16 thereafter~~;~~ ; for the costs of issuance~~;~~ ; the costs of levying
17 the assessments~~;~~ ; the costs of forming the district~~;~~ ; the
18 costs of designing and planning the improvements~~;~~ ; all costs
19 incurred with respect to levy, collection, and enforcement of
20 payment of, the assessments, revenues, fees, rates, and user
21 charges, and for all other incidental costs even though
22 incurred before the formation of the district or before the
23 issuance of the bonds.

24 "~~(d)~~ (f) Bonds issued by a district shall not be
25 indebtedness of the appointing government or any public person
26 other than the district, and shall not be counted against the
27 debt limit of any county or municipality, except to the extent

1 guaranteed or secured by the appointing government or other
2 public person.

3 "~~(e)~~ (g) The appointing government and any other
4 public person may guarantee or pledge revenues to the payment
5 of any bonds, or to the costs of improvements, on ~~such the~~
6 terms as it considers appropriate, including a pledge of its
7 full faith and credit. A revenue pledge may, without
8 limitations, include a pledge of revenue increases deemed to
9 have resulted from the construction, acquisition, provision,
10 or installation of the improvements as determined by
11 resolution or ordinance of the public person making the
12 pledge.

13 "~~(f)~~ (h) Upon the adoption by a board of any
14 resolution providing for or anticipating the issuance of bonds
15 or temporary bonds, the district may, either before, upon, or
16 after issuance of bonds or temporary bonds, publish once a
17 week for two consecutive weeks in a newspaper of general
18 circulation in the appointing government, a notice in
19 substantially the following form, the blanks being properly
20 filled in, at the end of which shall be printed the name and
21 title of either the chair or secretary of the district:

22 " , ~~a municipal~~ an improvement district organized under
23 the laws of the State of Alabama, on the day of ,
24 , adopted a resolution with respect to the issuance of not
25 more than \$ principal amount of [revenue or other
26 appropriate designation] bonds or temporary bonds of the
27 district for purposes authorized in the act of the Legislature

1 of Alabama under which the district was organized. Any action
2 or proceeding questioning the validity of the bonds, any
3 pledge or mortgage to secure the same, the assessments made
4 with respect to the bonds, or the proceedings authorizing the
5 same shall be commenced within 20 days after the first
6 publication of this notice." Any action or proceeding in any
7 court questioning the validity of the bonds, any pledge or
8 mortgage to secure the same, the assessments made with respect
9 to the bonds, or the proceedings authorizing the same shall be
10 commenced within 20 days after the first publication of a
11 notice. After the expiration of the period, no cause of
12 action, counterclaim, setoff, or defense questioning any of
13 the foregoing may be asserted in any court on any ground
14 whatsoever except in an action or proceeding commenced within
15 the period for such purpose.

16 ~~"(g) Bonds issued by a district shall be for a term~~
17 ~~approximately coextensive with the term provided for payment~~
18 ~~of the assessments.~~

19 "(i) Any bonds issued by the district shall be
20 incontestable in the hands of bona fide purchasers or holders
21 for value and shall not be invalid because of any irregularity
22 or defect in the proceedings for the issue and sale thereof.

23 "(j) Any indenture, trust indenture, or resolution
24 authorizing the issuance of bonds may contain the agreements,
25 covenants, mortgages, and pledges as the board deems
26 advisable, and all the agreements, covenants, mortgages, and
27 pledges shall constitute valid and legally binding and

1 enforceable contracts between the district and the
2 bondholders, or a trustee for any bondholders, regardless of
3 the time of issuance thereof, and may be enforced by the
4 bondholders, or a trustee for any bondholders, by mandamus, by
5 the appointment of a receiver, foreclosure of the mortgages,
6 and all other remedies available at law or in equity.

7 "(k) This chapter constitutes full and complete
8 authority for the issuance of bonds and the exercise of the
9 powers of the district provided herein. No procedures or
10 proceedings, publications, notices, consents, approvals,
11 orders, acts, or things by the board, or any board, officers,
12 commission, department, agency, or instrumentality of the
13 state, other than those required by this chapter, shall be
14 required to perform anything under this chapter.

15 "(l) The state pledges to the holders of any bonds
16 issued by a district that it will not limit or alter the
17 rights of the district to own, acquire, construct,
18 reconstruct, improve, maintain, operate, or furnish the
19 improvements, or to levy and collect the assessments, rentals,
20 rates, fees, and other charges provided for herein and to
21 fulfill the terms of any agreement made with the holders of
22 the bonds or other obligations and that it will not in any way
23 impair the rights or remedies of the holders.

24 "§11-99A-19.

25 Following the completion of the acquisition,
26 construction, or installation of the improvements, if there
27 are excess funds, either from bond proceeds or from

1 assessments levied to pay, in whole or in part, the costs of
2 such improvements, after fully funding all reserves,
3 contingency funds, or the like, the excess funds, ~~either from~~
4 ~~bond proceeds or from assessments,~~ shall be used to prepay the
5 bonds at the earliest date on which the bonds may be prepaid
6 or redeemed ~~at a penalty or premium of two percent or less,~~
7 and the amount of such of the outstanding assessments levied
8 to pay, in whole or in part, the costs of such improvements
9 may be proportionately reduced to reflect prepayment of
10 principal. Upon payment of the bonds in full, other than by
11 refunding, all unpaid assessments levied to pay, in whole or
12 in part, the costs of such improvements may be terminated and
13 cancelled or may be continued, as determined by the board. Any
14 proceeds of assessments levied to pay, in whole or in part,
15 the costs of such improvements which are remaining or received
16 after payment of the bonds in full shall be ~~disposed of or~~
17 used to construct, install, or acquire additional
18 improvements, to refund assessments in a manner determined
19 equitable by the board, or as otherwise provided in the
20 board's proceedings with respect to issuance of the bonds.

21 "§11-99A-21.

22 "If the owner of any land within the district fails
23 to pay an assessment when due, time being of the essence, the
24 board may commence proceedings to foreclose on the land as
25 follows:

26 "(1) The board shall send a letter, certified mail,
27 return receipt requested, United States first class mail to

1 the last known address of the owner. The address of the owner
2 as shown in the tax assessment records of the tax assessor or
3 revenue commissioner for the county in which the property is
4 located shall be sufficient.

5 "(2) The letter shall specify that if payment is not
6 made within 10 days of the date of the letter, foreclosure
7 proceedings may be commenced.

8 "(3) Any late payment received within the 10-day
9 period will accrue a late fee of the greater of five percent
10 of the payment or fifty dollars (\$50).

11 "(4) If payment is not made within the 10-day
12 period, the entire assessment shall become immediately due and
13 payable, and the board may do either of the following:

14 "a. File a complaint in the circuit court for the
15 county in which the property is located requesting that the
16 property be foreclosed. Thirty days following service of
17 process, unless the entire assessment is paid in the meantime,
18 the court shall enter a decree declaring that the property
19 shall be sold to the highest bidder.

20 "b. Proceed to sell the property against which the
21 assessment is made to the highest bidder for cash.

22 ~~"c. In either case, the sale shall be made after~~
23 ~~first giving public notice of the date and time of the sale~~
24 ~~and the purpose for which the same is made, together with a~~
25 ~~description of the property to be sold; and that the proceeds~~
26 ~~from the sale shall first be applied to the amount of the~~
27 ~~assessment and all accrued interest thereon, plus penalties~~

1 ~~specified in subdivision (3), plus the attorneys' fees and~~
2 ~~other expenses incurred by the board in the foreclosure and~~
3 ~~suit. In either case, the property shall be sold in the same~~
4 ~~manner and upon the same notice as provided by law for the~~
5 ~~sale of lands or property by foreclosure by power of sale for~~
6 ~~mortgages.~~

7 "(5) If the ~~agent~~ board concludes that no bidders
8 are present or that all bids are insufficient, the ~~agent~~ board
9 may announce that the ~~auction~~ sale shall be continued to a
10 later date to be announced by public notice.

11 "(6) Upon declaring the highest bidder and receipt
12 of the purchase price, ~~an agent of the board shall make out a~~
13 ~~foreclosure~~ deliver a deed to the highest bidder, as
14 purchaser, that shall vest legal title of the lands or
15 property sold by the foreclosure proceedings to the purchaser.
16 The owner of the property shall have no right of redemption
17 unless otherwise provided in the board's proceedings with
18 respect to the assessment.

19 "(7) The purchase price shall be used first for the
20 payment of the assessment, then for the cost of collection,
21 suit, foreclosure, and deed preparation, then for penalties,
22 then for accrued interest and interest until the next
23 principal payment date of bonds as provided in this chapter
24 with respect to prepayments of assessments, and then for the
25 unpaid principal amount of the assessment, and any remaining
26 portion shall be paid to the owner of the land at the owner's

1 last known address as shown in the records of the tax assessor
2 or revenue commissioner with respect to such tract of land.

3 "(8) The board may bid on any sale the same as any
4 other person, and may credit any portion of the assessment and
5 other costs as a part of its bid.

6 "(9) If the highest amount bid and accepted is
7 insufficient to pay the entire assessment, the board and
8 holders of the bonds shall have no further claim against the
9 owner of the land assessed by virtue of the assessment.

10 "(10) Any foreclosure deed made pursuant hereto
11 shall make no warranty with respect to the title to the land
12 other than as expressly stated therein.

13 "(11) At any point in the foreclosure proceedings,
14 until a bid is accepted, the board may waive the default on
15 terms as it may consider proper and reinstate the assessment,
16 subject to any contrary terms of the board's proceedings with
17 respect to the bonds.

18 "§11-99A-36.

19 "Assessments may be pledged to an issue of bonds,
20 and if pledged, the pledge shall be deemed a perfected, first
21 claim by the bondholders, or trustee on behalf of the
22 bondholders, against the assessments, regardless of compliance
23 with the terms of ~~Article 9~~ Chapter 9A of Title 7, the Alabama
24 Uniform Commercial Code, or any other public notice or filing.
25 However, nothing herein shall prevent the filing of a
26 financing statement under ~~Article 9~~ Chapter 9A of Title 7, the
27 Alabama Uniform Commercial Code, and a filing shall not

1 constitute an election to perfect only in accordance with
2 ~~Article 9~~ Chapter 9A of Title 7. The bondholders, or a trustee
3 on behalf of bondholders, may enforce the pledge of the
4 assessments, and the rights and remedies of the board with
5 respect to any failure to pay any assessment, as provided in
6 this chapter, to the extent provided in the agreements and
7 proceedings under which the bonds were issued, by mandamus and
8 all other remedies available at law or in equity.

9 "§11-99A-42.

10 "The council may make a reassessment or new
11 assessment of a parcel of land or amend the amount of an
12 assessment of a parcel of land if:

13 "(1) A court of competent jurisdiction sets aside an
14 assessment against the parcel.

15 "~~(2) The council determines that the original~~
16 ~~assessment is excessive.~~

17 "~~(3)~~ (2) On the written advice of legal counsel, the
18 council determines that the original assessment is invalid.

19 "(3) Requested in writing by a district to correct
20 an error or omission in an existing assessment, or to comply
21 with the methodology for the assessments as approved by the
22 council as provided in this chapter, or to conform an
23 assessment or assessments to the provisions and limitations
24 thereupon of this chapter.

25 "§11-99A-43.

26 "~~The district may issue temporary bonds for the~~
27 ~~purpose of paying the costs for which bonds may be issued, or~~

1 ~~bonds to be repaid out of the proceeds of a permanent or~~
2 ~~long-term bond issue.~~

3 "(a) A district may borrow money in anticipation of
4 the issuance of bonds, for the purposes for which bonds may be
5 issued, and in evidence of the borrowing issue temporary bonds
6 or notes, from time to time, of the form, denomination, tenor,
7 maturities, and other provisions, and bearing the rate or
8 rates of interest, or no interest, payable at the time or
9 times, and evidenced in the manner, as may be provided in the
10 proceedings of the board of the district with respect to the
11 temporary bonds or notes. All provisions of this chapter
12 relating to bonds or notes shall apply to all temporary bonds
13 or notes issued hereunder.

14 "(b) The district at any time may obtain loans, in
15 the amount and on the terms and conditions as the board may
16 approve, for the purpose of paying any of the expenses of the
17 district or any costs incurred or that may be incurred in
18 connection with any of the improvements or projects of the
19 district. The loans shall bear the interest as the board may
20 determine and shall be payable from and secured by a pledge of
21 the funds, revenues, and assessments as the board may
22 determine, subject, however, to the provisions contained in
23 any proceeding under which bonds were theretofore issued and
24 are then outstanding. For the purpose of paying the costs and
25 expenses, the district may issue negotiable bonds, notes,
26 warrants, or other evidences of debt to be payable at the
27 times, to bear the interest as the board may determine and to

1 be sold at the price or prices and on the terms as the board
2 may deem advisable. The board may provide for the payment
3 thereof by pledging the whole or any part of the funds,
4 revenues, taxes, and assessments of the district or any funds
5 or revenues made available to the district by an owner, any
6 public person, or any private person."

7 Section 2. Section 11-99A-52 is added to Code of
8 Alabama 1975, to read as follows:

9 (a) The formation and incorporation of each district
10 heretofore formed and incorporated pursuant to this chapter,
11 by any county or municipality, is validated and confirmed from
12 the date of the formation and incorporation, notwithstanding
13 any noncompliance with Section 11-99A-4 or other provision of
14 this chapter with respect thereto; provided, however, that the
15 validation and confirmation effected by this section shall not
16 be applicable to any district the validity of which is being
17 directly challenged in appropriate judicial proceedings in any
18 proper court on the date this section becomes effective.

19 (b) In the event that, subsequent to June 12, 1999,
20 land within the corporate limits of a municipality is removed
21 from or deannexed from, or otherwise determined not to be
22 within the corporate limits of the municipality, such that the
23 land within a district formed and incorporated pursuant to a
24 petition approved by the municipality under Section 11-99A-4,
25 which land is therefore within the corporate limits of the
26 municipality, is not contiguous at any point with land within
27 the corporate limits of the municipality, then the district

1 shall be valid in all respects from the date of formation and
2 incorporation thereof, the land within the district shall be
3 and remain within the corporate limits, and a part, of the
4 municipality, and the municipality shall remain the appointing
5 government with respect to the district.

6 Section 3. Sections 11-99A-17 and 11-99A-30, Code of
7 Alabama 1975, are repealed.

8 Section 4. It is the intent of the Legislature by
9 the passage of this act to clarify existing provisions of law
10 and, to that end, the amendments of the Alabama Improvement
11 District Act made by this act shall be deemed declarative of
12 existing law, and therefore, shall have both a prospective and
13 a retroactive operation.

14 Section 5. In the event any provision of this act
15 shall be declared invalid or unenforceable by a court of
16 competent jurisdiction, the holding shall not affect the
17 validity or enforceability of the remaining provisions hereof,
18 which shall continue effective.

19 Section 6. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.