

The Senate Committee on Economic Development and Tourism offered the following substitute to HB 642:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide guidance for the creation and termination of certain special districts; to
3 restate constitutional authority for the levying of a tax in such districts; to provide for the
4 formation of a recommendations committee; to provide for options for the disposition and
5 use of the funds from such districts; to restate constitutional authority for bonds and
6 financing for such districts; to provide definitions; to provide for related matters; to provide
7 for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
11 by adding a new chapter, which was reserved, to read as follows:

12 style="text-align:center">"CHAPTER 77

13 36-77-1.

14 As used in this chapter, the term:

15 (1) 'Commercial' or 'commercial residential' means any real property that is not exempt
16 from ad valorem taxation under the Constitution of Georgia or the laws of the State of
17 Georgia or designated for single-family residential, agricultural, or forestry purposes by
18 the tax assessor, board of assessors, or other official or public body then charged with
19 assessing property for ad valorem tax purposes for or on behalf of the applicable
20 municipality or county.

21 (2) 'Cost of the project' or 'cost of any project' means and includes:

22 (A) All costs of acquisition by purchase or otherwise, construction, assembly,
23 installation, modification, renovation, or rehabilitation incurred in connection with any
24 project or any part of any project authorized under this chapter;

25 (B) All costs of real property, fixtures, or personal property used in or in connection
26 with or necessary for any project or for any facilities related thereto, including, but not
27 limited to, the cost of all land, estates for years, easements, rights, improvements, water
28 rights, connections for utility services, fees, franchises, permits, approvals, licenses, and
29 certificates; the cost of securing any such franchises, permits, approvals, licenses, or
30 certificates; the cost of preparation of any application therefor; and the cost of all
31 fixtures, machinery, equipment including all transportation equipment and rolling stock,
32 furniture, and other property used in or in connection with or necessary for the project;
33 (C) All financing charges and loan fees and all interest on bonds, notes, or other
34 obligations which accrue or are paid prior to and during the period of construction of
35 a project and during such additional period as the governing authority creating such
36 district may reasonably determine to be necessary to place such project in operation;
37 (D) All costs of engineering, surveying, architectural, and legal services and all
38 expenses incurred by engineers, surveyors, architects, and attorneys in connection with
39 the project;
40 (E) All expenses for inspection of the project;
41 (F) All fees of fiscal agents, paying agents, consultants, attorneys, and trustees for
42 bondholders under any trust agreement, indenture of trust, or similar instrument or
43 agreement; all expenses incurred by any such fiscal agents, paying agents, consultants,
44 attorneys, and trustees; and all other costs and expenses incurred relative to the issuance
45 of any bonds, notes, or other obligations for the project;
46 (G) All expenses of or incidental to determining the feasibility or practicability of the
47 project;
48 (H) All costs of plans and specifications for the project;
49 (I) All costs of title insurance and examinations of title with respect to the project;
50 (J) Repayment of any loans made for the advance payment of any part of any of the
51 foregoing costs, including interest thereon and any other expenses of such loans;
52 (K) Administrative expenses and such other expenses as may be necessary for or
53 incidental to the project or the financing thereof or the placing of the project in
54 operation; and
55 (L) The establishment of a fund or funds for the creation of a debt service reserve, a
56 renewal and replacement reserve, or such other funds or reserves as the governing
57 authority creating such special improvement district may approve with respect to the
58 financing and operation of the project and as may be authorized by any bond resolution,
59 trust agreement, indenture of trust, or similar instrument or agreement pursuant to the
60 provisions of which the issuance of any bonds, notes, or other obligations for the
61 benefit of the district may be authorized.

62 Any cost, obligation, or expense incurred for any of the foregoing purposes shall be a part
63 of the cost of the project and may be paid or reimbursed as such out of proceeds of bonds,
64 notes, or other obligations issued for the benefit of the special improvement district.

65 (3) 'District map' means the geographical area designated as such by the ordinance or
66 resolution of the governing authority choosing to create a special improvement district
67 or as thereafter modified by any subsequent resolution or ordinance of the governing
68 authority.

69 (4) 'Governing authority' means the commission, council, or other governmental body
70 which is charged with the administration of the governmental services for the county or
71 municipality in which one or more districts are formed.

72 (5) 'Project' means a proposed multi-use trail project, which forms a part of a surface
73 transportation project, which is expected to be provided by the provision of the
74 supplemental services or the imposition of the special improvement tax contemplated in
75 this chapter.

76 (6) 'Special improvement district' means a special district that a governing authority
77 chooses to create that meets the parameters provided in this chapter.

78 (7) 'Special improvement tax' means a tax, fee, or assessment levied by the governing
79 authority in which the special improvement district is located to fund the supplemental
80 services to be provided.

81 (8) 'Supplemental services' means those services provided for the improvement of the
82 special improvement district, as and to the extent associated with the design, acquisition,
83 and improvement of any multi-use trail that is part of a surface transportation project.

84 (9) 'Surface transportation project' means a project for public improvement and related
85 public facilities which is planned to impact 10,000 or more acres and at least ten transit
86 miles within the area of operation of the local government creating the special
87 improvement district, including any related facilities, systems, parks, trails, streets,
88 greenspace, and any other integrated public or private development features included
89 within any adopted infrastructure or transportation plan, urban redevelopment plan,
90 strategic implementation plan, redevelopment plan, workable programs, or
91 comprehensive plans; provided that the location of such surface transportation project is
92 wholly within a county or counties that impose a sales tax levied for the purposes of a
93 metropolitan area system of public transportation; and provided, further, that the project
94 is within the boundaries of a tax allocation district authorized under the provisions of
95 Chapter 44 of this title.

96 (10) 'Taxpayer' means any entity or person on which ad valorem taxes on tangible
97 property, whether on one or more businesses or one or more parcels of property, are
98 levied within a special improvement district and whose property is not fully exempt from

99 such taxation. The owner of the property or properties subject to the special
 100 improvement tax and not the tenant or tenants, lessee or lessees, or other user or users
 101 shall for all purposes of this chapter be deemed the applicable taxpayer.

102 36-77-1.1.

103 (a)(1) The owners of tangible property subject to taxation within a special improvement
 104 district may form a recommendations committee.

105 (2) Such committee may be composed of seven individuals, more or less, who are
 106 owners of tangible property subject to taxation within the special improvement district,
 107 to be chosen by a majority of such owners who appear at a meeting for such purpose as
 108 may be called by at least one owner of tangible property subject to taxation within the
 109 special improvement district.

110 (b) Such committee may invite the mayor of each municipality within which the special
 111 improvement district lies, and each county commissioner from each county within which
 112 the special improvement district lies, as well as others to discuss matters related to the
 113 special improvement district, each to be selected by a majority vote of owners of tangible
 114 property subject to taxation within the special improvement district.

115 (c) Such committee may make recommendations to the governing authority, including,
 116 without limitation, matters regarding:

- 117 (1) The levy of taxes, fees, or assessments within the special improvement district;
 118 (2) The expenditure of the special improvement district's funds;
 119 (3) The incurrence of debt on behalf of the special improvement district;
 120 (4) The boundaries of the special improvement district; and
 121 (5) Any other matter related to the operation and governance of the special improvement
 122 district.

123 36-77-2.

124 (a) Pursuant to Article IX, Section II, Paragraph VI of the Constitution of Georgia, a
 125 governing authority, by municipal or county ordinance or resolution, may choose to create
 126 special districts for the provision of local government services within such districts.

127 (b) Fees, assessments, and taxes may be levied and collected within such districts to pay,
 128 wholly or partially, the cost of providing such services therein and to construct and
 129 maintain facilities therefor. Such fees, assessments, or taxes may be levied and collected
 130 therein by municipal or county ordinance or resolution.

131 36-77-2.1.

132 (a) A governing authority may choose to create a special district that meets the conditions
 133 for a special improvement district as described in this chapter.

134 (b)(1) The governing authority of any municipality or county may choose to adopt the
 135 boundaries of a special improvement district based upon, among other factors considered
 136 in making such determination, a written petition signed and acknowledged by:

137 (A)(1) Fifty-one percent, more or less, of the taxpayers, as shown by the most recent
 138 list of taxpayers billed by the municipality or county, of the district proposed for
 139 creation or extension at the time of such creation or extension; provided, however, that
 140 taxpayers owning at least 51 percent, more or less, of the taxable property designated
 141 as commercial residential in the district shall be included in the aggregate calculation
 142 of the requisite percentage of taxpayers petitioning for the creation of the special
 143 improvement district; or

144 (B) Taxpayers owning 75 percent by assessed value, more or less, as shown by the
 145 most recent assessment rolls of the municipality or county, of the taxable property
 146 subject to ad valorem real property taxation in the district at the time of the request for
 147 creation or extension of the special improvement district by petition; provided,
 148 however, that taxpayers owning 75 percent, more or less, of the taxable property
 149 designated as commercial residential in the district shall be included in the aggregate
 150 calculation of the requisite percentage of taxpayers petitioning for the creation of such
 151 district at the time of creation or extension of such district;

152 (2) Such petition may be accompanied by a map proposing the geographic boundaries
 153 of a proposed special improvement district which may include a surface transportation
 154 project, and which geographic boundaries may exclude homestead and single-family
 155 residential property to the extent practicable; and

156 (3) Such petition shall be presented to the governing authority of the municipality or
 157 county within which such proposed geographic boundaries lie, and such governing
 158 authority may choose to adopt such proposed boundaries of the district in the creation of
 159 a special improvement district.

160 36-77-3.

161 The governing authority of any municipality or county may exercise all powers otherwise
 162 allowed by law, including, without limitation, the following powers with respect to each
 163 such district:

164 (1) To fix and levy annually a millage, which may be pledged, directly or indirectly, as
 165 security for the issuance of revenue bonds, upon tangible property within such district;

166 (2) To make such assessments and liens upon the properties, and to enforce such liens
167 in the same manner and with the same priority as other city or county taxes; and
168 (3) To provide supplemental services or to contract with nonprofit corporations,
169 development authorities, or other governmental agencies or authorities for all or part of
170 the supplemental services required to implement the project.

171 36-77-4.

172 Expenses incurred in the provision of supplemental services within a special improvement
173 district may be financed in a manner not inconsistent with this chapter, state, law, and the
174 Constitution of Georgia.

175 36-77-5.

176 Expenditures may be made to be consistent with the plans that created a surface
177 transportation project, provided that the cost of supplemental services shall not include the
178 cost of services performed by the municipality or county on a city-wide or county-wide
179 basis.

180 36-77-5.1.

181 (a) Any tax, fee, or assessment shall be levied and collected in the same manner, at the
182 same time, and by the same officers as other city or county taxes and assessments.

183 (b) Delinquent taxes shall bear the same interest and penalties as county or municipal ad
184 valorem taxes and may be enforced and collected in the same manner.

185 (c) The proceeds of taxes, fees, and assessments so levied shall be transmitted by the tax
186 commissioner or other official or public body collecting taxes, fees, and assessments for
187 or on behalf of the county or municipality creating the district to the governing authority
188 and shall be expended by the governing authority only for the purposes authorized by
189 Article IX, Section II, Paragraph VI of the Constitution of Georgia.

190 36-77-6.

191 (a) The taxes, fees, and assessments levied by the governing authority should be equitably
192 apportioned among the properties subject to such taxes, fees, and assessments according
193 to any factors or methodology reasonably determined by the governing authority relating
194 to the need for governmental services and facilities created by, among other factors, the
195 degree of density of development of each such property.

196 (b) The proceeds of taxes, fees, and assessments levied by the governing authority should
197 be used only for the purpose of providing governmental services and facilities necessary
198 for a project which are specially required by the degree of density of development within

199 the district and not for the purpose of providing those governmental services and facilities
 200 provided to the county or municipality as a whole.

201 (c) The governing authority may levy the taxes, fees, and assessments in subsection (a) of
 202 this Code section subsequent to the report of the assessed taxable values for the current
 203 calendar year and notify in writing the collecting governing bodies so they may include the
 204 levy on their regular ad valorem tax bills. All taxes, fees, and assessments levied by and
 205 collected by the county or municipality in which the district was created in the same
 206 manner as taxes, fees, and assessments are levied by such county or municipality shall be
 207 segregated, and neither the county, municipality, nor the tax commissioner shall expend
 208 such funds for any purpose not authorized by the governing authority except as authorized
 209 in subsection (a) of this Code section.

210 (d) If, but for this provision, a parcel of real property is removed from a district or
 211 otherwise would become nontaxable, it shall continue to bear its tax millage then extant
 212 upon such event for bonded indebtedness of the district then outstanding until such bonded
 213 indebtedness then outstanding is paid or refunded.

214 36-77-7.

215 (a) Any district which is created or renewed pursuant to Code Section 36-77-2 may, at the
 216 discretion of the governing authority, terminate and cease to exist upon the earlier to occur
 217 of:

218 (1) Thirty years from the date of creation; or

219 (2) The certification by the governing authority, pursuant to a resolution or ordinance,
 220 that the special improvement district has paid, or provided for payment in full, of all
 221 outstanding debt contracted for at the time of termination.

222 (b) A district created under this chapter shall continue, without further action by the
 223 governing authority or the taxpayers, and the governing authority shall be required to levy
 224 and assess special improvement taxes until such time as all outstanding debt and other
 225 obligations contracted for the benefit of the district have been fully paid or provided for.

226 37-77-7.1.

227 (a) Only in accordance with Article IX, Section V, Paragraph II of the Constitution of
 228 Georgia may a county, municipality, or political subdivision of this state incur debt on
 229 behalf of a special district created pursuant to Article IX, Section II, Paragraph VI of the
 230 Constitution of Georgia.

231 (b)(1) Such debt may be incurred on behalf of such special district where the county,
 232 municipality, or other political subdivision shall have, at or before the time of incurring
 233 such debt, provided for the assessment and collection of an annual tax within the special

234 district sufficient in amount to pay the principal of and interest on such debt within 30
 235 years from the incurrence thereof.

236 (2) No such county, municipality, or other political subdivision shall incur any debt on
 237 behalf of such special district without the assent of a majority of the qualified voters of
 238 such special district voting in an election held for that purpose as provided by law.

239 (3) No such county, municipality, or other political subdivision shall incur any debt on
 240 behalf of such special district in an amount which, when taken together with all other debt
 241 outstanding incurred by such county, municipality, or political subdivision and on behalf
 242 of any such special district, exceeds 10 percent of the assessed value of all taxable
 243 property within such county, municipality, or political subdivision.

244 (4) The proceeds of the tax collected shall be placed in a sinking fund to be held on
 245 behalf of such special district and used exclusively to pay off the principal of and interest
 246 on such debt thereafter maturing. Such moneys shall be held and kept separate and apart
 247 from all other revenues collected and may be invested and reinvested as provided by law.

248 (c) Such debt shall be validated in accordance with Chapter 82 of this title.

249 36-77-8.

250 The powers provided by this chapter are intended by the General Assembly to be
 251 duplicative of any powers heretofore provided by law for counties, municipalities, and
 252 consolidated governments of this state and not in addition to or in lieu of any such powers."

253 **SECTION 2.**

254 This Act shall become effective upon its approval by the Governor or upon its becoming law
 255 without such approval.

256 **SECTION 3.**

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