

Senate Bill 435

By: Senators Ginn of the 47th, Gooch of the 51st, Still of the 48th, Butler of the 55th,
Mallow of the 2nd and others

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 for a short title; to provide legislative findings; to provide for definitions; to
3 provide for establishment of districts; to provide for boards of supervisors; to provide for
4 budgets, reports, and reviews; to provide for disclosure of public financing; to provide for
5 general and special powers; to provide for eminent domain; to provide for rules and
6 regulations; to provide for issuance of bond anticipation notes; to provide for short-term
7 borrowing; to provide for bonds; to provide for trust agreements; to provide for taxes and
8 non-ad valorem assessments; to provide for tax liens; to provide for payment of taxes and
9 redemption of tax liens by the district and sharing in proceeds of tax sale; to provide for
10 enforcement by civil action; to provide for mandatory use of certain district facilities and
11 services; to provide for fees, rentals, and charges, procedure for adoption and modifications,
12 and minimum revenue requirements; to provide for recovery of delinquent charges; to
13 provide for discontinuance of service; to provide for enforcement and penalties; to provide
14 for exemption of district property from execution; to provide for termination, contraction, or
15 expansion of district; to provide for sale of real estate within a district; to provide for required
16 disclosures to purchasers; to provide for notices of establishment; to provide for notices to
17 service delivery providers; to provide for related matters; to provide for an effective date; to
18 provide for contingent repeal; to repeal conflicting laws; and for other purposes.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 SECTION 1.

21 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
22 by adding a new chapter to read as follows:

23 "CHAPTER 93

24 36-93-1.

25 This chapter shall be known and may be cited as the 'Infrastructure and Community
26 Development Act.'

27 36-93-2.

28 The General Assembly finds that:

29 (1) Independent districts are a legitimate alternative method available for use by the
30 private and public sectors, as authorized by state law, to manage and finance basic
31 services for community developments;

32 (2) The exercise by any independent district of its powers as set forth by uniform general
33 law should comply with all applicable governmental laws, rules, regulations, and policies
34 governing planning and permitting of the development to be serviced by the district, to
35 ensure that neither the establishment nor operation of such district is a development order
36 and that the district so established does not have any zoning or permitting powers
37 governing development;

38 (3) The process of establishing a community development district should be fair and
39 based only on factors material to managing and financing the service delivery function
40 of the district, so that any matter concerning permitting or planning of the development
41 is not material or relevant; and

42 (4) It is the legislative intent and purpose, based upon and consistent with the General
43 Assembly's findings of fact and declarations of policy, to authorize a uniform procedure
44 by general law to establish community development districts as an alternative method to
45 manage and finance basic services for community development. It is further the
46 legislative intent and purpose to provide by general law for the uniform operation,
47 exercise of power, and procedure for termination of any such district. It is further the
48 purpose and intent of the General Assembly that a district created under this chapter not
49 have or exercise any zoning or development permitting power, that the establishment of
50 a community development district as provided in this chapter not be a development order,
51 and that all applicable planning and permitting laws, rules, regulations, and policies
52 control the development of the land to be serviced by the district. It is further the purpose
53 and intent of the General Assembly that no debt or obligation of a community
54 development district constitute a burden on any general purpose local government
55 without its consent.

56 36-93-3.

57 As used in this chapter, the term:

58 (1) 'Assessable improvements' means, without limitation, any and all public
59 improvements and community facilities that a district is empowered to provide in
60 accordance with this chapter.

61 (2) 'Board' or 'board of supervisors' means the governing board of a district or, if such
62 board has been abolished, the board, body, or commission succeeding to the principal
63 functions thereof or to which the powers given to such board by this chapter have been
64 given by law.

65 (3) 'Bond' includes any general obligation bond, assessment bond, refunding bond,
66 revenue bond, and other such obligation in the nature of a bond of a district as is provided
67 for in this chapter and authorized to be issued under the Constitution and laws of this

68 state, including, but not limited to, any revenue bonds issued under Article 3 of Chapter
69 82 of this title, the 'Revenue Bond Law.' Such term shall not include notes or other
70 obligations of the district.

71 (4) 'Community development district' or 'district' means a geographic area of
72 development created pursuant to this chapter and limited to the performance of those
73 specialized functions authorized by this chapter, the governing body of which is a board
74 created and authorized to function specifically as prescribed in this chapter for the
75 financing of projects and the formation, powers, operation, duration, accountability,
76 requirements for disclosure, and termination of which are as required by this chapter.
77 Such term shall be considered a political subdivision.

78 (5) 'Cost,' when used with reference to any project, includes, but is not limited to:

79 (A) The expenses of determining the feasibility or practicability of acquisition,
80 construction, or reconstruction;

81 (B) The cost of surveys, estimates, plans, and specifications;

82 (C) The cost of improvements;

83 (D) Engineering, fiscal, and legal expenses and charges;

84 (E) The cost of all labor, materials, machinery, and equipment;

85 (F) The cost of all lands, properties, rights, easements, and franchises acquired;

86 (G) Financing charges;

87 (H) The creation of initial reserve and debt service funds;

88 (I) Working capital;

89 (J) Interest charges incurred or estimated to be incurred on money borrowed prior to
90 and during construction and acquisition and for such reasonable period of time after
91 completion of construction or acquisition as the board may determine;

92 (K) The cost of issuance of bonds pursuant to this chapter;

93 (L) The cost of any election held pursuant to this chapter and all other expenses of
94 issuance of bonds;

- 95 (M) The discount, if any, on the sale or exchange of bonds;
96 (N) Administrative expenses;
97 (O) Such other expenses as may be necessary or incidental to the acquisition,
98 construction, or reconstruction of any project or to the financing thereof, or to the
99 development of any lands within a district; and
100 (P) Payments, contributions, dedications, fair share or concurrency obligations, and any
101 other exactions required as a condition to receive any government approval or permit
102 necessary to accomplish any district purpose.
- 103 (6) 'District manager' means the manager of a district.
104 (7) 'District road' means any public road as defined in Code Section 32-1-3 that is located
105 within a district.
- 106 (8) 'Elector' means a landowner.
107 (9) 'Equitably apportioned among the properties subject to such assessments according
108 to the need for governmental services and facilities created by the degree of density of
109 development of each such property,' with reference to assessments levied by a board,
110 means that the burden of the assessments shall be apportioned among the properties
111 subject thereto based upon the values established in the most recent ad valorem tax
112 reassessment of such properties certified by the county tax assessor or may be
113 apportioned among the properties subject thereto in direct or approximate proportion to
114 the receipt of services or benefits derived from the improvements or other activities for
115 which the assessments are to be expended or may be apportioned in any other manner or
116 combination of manners deemed equitable by the board, including, but not limited to, the
117 recognition of differential benefits which may reasonably be expected to accrue to new
118 land development in contrast to lands and improvements already in existence at the time
119 of creation of the community improvement district.
- 120 (10) 'General obligation bonds' means bonds which are secured by, or provide for their
121 payment by, the pledge, in addition to those special taxes levied for their discharge and

122 such other sources as may be provided for their payment or pledged as security under the
123 resolution authorizing their issuance, of the full faith and credit and taxing power of a
124 district and for payment of which recourse may be had against the general fund of such
125 district.

126 (11) 'General purpose local government' means a county, municipal corporation, or
127 consolidated government of the State of Georgia.

128 (12) 'Landowner' means the owner of a freehold estate as appears by the deed record,
129 including a trustee, a private corporation, and an owner of a condominium unit. Such
130 term does not include a reversioner, remainderman, mortgagee, grantee of a security
131 deed, or any governmental entity, which shall not be counted and need not be notified of
132 proceedings under this chapter. Such term shall also mean the owner of a ground lease
133 from a governmental entity, which leasehold interest has a remaining term, excluding all
134 renewal options, in excess of 30 years.

135 (13) 'Project' means any development, improvement, property, utility, facility, works,
136 enterprise, or service existing on July 1, 2024, or thereafter undertaken or established
137 under the provisions of this chapter. Such term shall not include an electric utility or a
138 gas company as such terms are defined in Code Section 46-1-1.

139 (14) 'Qualified elector' means a landowner within a district who, at the time such district
140 was created, was not shown as a landowner for one or more parcels of real estate within
141 the district on the ad valorem tax records of the county or counties in which such district
142 is located.

143 (15) 'Refunding bonds' means bonds issued to refinance outstanding bonds of any type
144 and the interest and redemption premium thereon. Refunding bonds shall be issuable and
145 payable in the same manner as bonds being refunded, except that no approval by the
146 electorate shall be required in the case of refunding bonds which are general obligation
147 bonds if the conditions described in subparagraphs (e)(1)(A) through (e)(1)(D) of Code
148 Section 36-82-1 are met.

149 (16) 'Revenue bonds' means obligations of a district which are payable from revenues
150 derived from sources other than ad valorem taxes on real or tangible personal property
151 and which do not pledge the full faith, credit, and taxing power of such district.

152 (17) 'Revenues' means the proceeds of assessments, rates, fees, rentals, or other charges
153 prescribed, fixed, established, and collected by a board for the projects furnished by a
154 district.

155 (18) 'Service delivery provider' means a local government or local government authority
156 that provides services to a designated area pursuant to Article 2 of Chapter 70 of this title.

157 (19) 'Sewer system' means any plant, system, facility, or property, and additions,
158 extensions, and improvements thereto at any future time constructed or acquired as part
159 thereof, useful or necessary or having the present capacity for future use in connection
160 with the collection, treatment, purification, or disposal of sewage, including, without
161 limitation, industrial wastes resulting from any process of industry, manufacture, trade,
162 or business or from the development of any natural resource. Without limiting the
163 generality of the foregoing, such term includes treatment plants, pumping stations, lift
164 stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all
165 necessary appurtenances and equipment; all sewer mains, laterals, and other devices for
166 the reception and collection of sewage from premises connected therewith; and all real
167 and personal property and any interest therein, rights, easements, and franchises of any
168 nature relating to any such system and necessary or convenient for operation thereof.

169 (20) 'Water management and control facilities' means any lakes, canals, ditches,
170 reservoirs, dams, levees, sluiceways, floodways, curbs, gutters, pumping stations, or any
171 other works, structures, or facilities for the conservation, control, development,
172 utilization, and disposal of water and any purposes appurtenant, necessary, or incidental
173 thereto. Such term includes all real and personal property and any interest therein, rights,
174 easements, and franchises of any nature relating to any such facilities or necessary or

175 convenient for the acquisition, construction, reconstruction, operation, or maintenance
176 thereof.

177 (21) 'Water system' means any plant, system, facility, or property or additions,
178 extensions, or improvements thereto at any future time constructed or acquired as part
179 thereof, useful or necessary or having the present capacity for future use in connection
180 with the development of sources, treatment, or purification and distribution of water.
181 Without limiting the generality of the foregoing, such term includes dams, reservoirs,
182 storage tanks, mains, lines, valves, hydrants, pumping stations, chilled water distribution
183 systems, laterals, and pipes for the purpose of carrying water to the premises connected
184 with such system and all rights, easements, and franchises of any nature relating to any
185 such system and necessary or convenient for the operation thereof. Such water system
186 shall be subject to the provisions of Part 5 of Article 3 of Chapter 5 of Title 12, the
187 'Georgia Safe Drinking Water Act of 1977.'

188 36-93-4.

189 (a) The exclusive and uniform method for the establishment of a community development
190 district shall be pursuant to resolution or ordinance adopted by the applicable general
191 purpose local government or governments granting a petition for the establishment of a
192 community development district as follows:

193 (1)(A) If all of the land of the proposed district is solely within the territorial
194 jurisdiction of a municipal corporation, then the petition requesting establishment of
195 such district shall be filed by the petitioner with the general purpose local government
196 of such municipal corporation and may be established by resolution or ordinance of
197 such general purpose local government.

198 (B) If all of the land of the proposed district is solely within the unincorporated area
199 of a county, then the petition requesting establishment of such district shall be filed by

200 the petitioner with the general purpose local government of such county and may be
201 established by resolution or ordinance of such general purpose local government.

202 (C) If all of the land of the proposed district is:

203 (i) Within the territorial jurisdiction of two or more municipal corporations;

204 (ii) Within both the territorial jurisdiction of one or more municipal corporations and
205 the unincorporated area of one or more counties; or

206 (iii) Within the unincorporated areas of two or more counties,

207 then the petition requesting establishment of such district shall be filed by the petitioner
208 with each applicable general purpose local government. A district established across
209 county boundaries shall be required to maintain records, hold meetings and hearings,
210 and publish notices only in the county where the majority of the acreage within the
211 district lies;

212 (2) A petition for the establishment of a community development district shall contain:

213 (A) A description of each property to be located within the boundaries of the district
214 by metes and bounds description, plat or block and lot reference, rectangular survey
215 system, or any combination thereof. Any real property within the external boundaries
216 of the district which is to be excluded from the district shall be specifically described,
217 and the last known address of all owners of such real property shall be listed. The
218 petition shall also address the impact of the proposed district on any real property
219 within the external boundaries of the district which is to be excluded from the district;

220 (B) The written consent to the establishment of the district by all landowners whose
221 real property is to be included in the district or documentation demonstrating that the
222 petitioner has control by deed, trust agreement, contract, or option of all of the real
223 property to be included in the district, and when real property to be included in the
224 district is owned by a governmental entity and subject to a ground lease as described
225 in paragraph (15) of Code Section 36-93-3, the written consent by such governmental
226 entity;

227 (C) A designation of five persons to be the initial members of the board of supervisors,
228 who shall serve in such office until replaced by elected members as provided in Code
229 Section 36-93-5;

230 (D) The proposed name of the district;

231 (E) Based upon reasonably available data, an identification of the water and sewer
232 facilities located within the district, if any;

233 (F) Based upon reasonably available data, a description of the anticipated district
234 projects, the proposed timetable for construction of the district projects, and the
235 estimated cost of construction. Such estimates shall be submitted in good faith but shall
236 not be binding and may be subject to change; and

237 (G) A designation of the future general distribution, location, and extent of public and
238 private uses of land proposed for the area within the district as shown on the applicable
239 general purpose local government's comprehensive land use plan, if one has been
240 adopted pursuant to Article 1 of Chapter 70 of this title;

241 (3) A petitioner shall submit to the applicable general purpose local government or
242 governments an application fee to be established by the applicable general purpose local
243 government or governments not to exceed \$500.00 per 100 acres of the proposed district
244 located within the jurisdiction of such general purpose local government or governments
245 and not to exceed \$15,000.00 regardless of acreage, to defray administrative costs
246 associated with the petition, including, but not limited to, legal fees and any other
247 professional fees incurred by the applicable general purpose local government or
248 governments;

249 (4)(A) Each applicable general purpose local government shall conduct a public
250 hearing to consider the relationship of the petition to the factors specified in paragraph
251 (5) of this subsection. The public hearing shall be concluded within 90 days after the
252 date the petition is filed unless an extension of time is requested by the petitioner and
253 granted by such general purpose local government. The hearing shall include oral and

254 written comments on the petition pertinent to the factors specified in paragraph (5) of
255 this subsection. The hearing shall be held at an accessible location in the county in
256 which the community development district is to be located. The petitioner shall cause
257 a notice of the hearing to be published in the legal organ of the applicable county,
258 counties, municipality, or municipalities at least once a week for the four successive
259 weeks immediately prior to the hearing. The notice shall give the time and place for
260 the hearing, a description of the area to be included in the district, and any other
261 relevant information which the appropriate general purpose local government or
262 governments may require. All applicable general purpose local governments and the
263 general public shall be given an opportunity to appear at the hearing and present oral
264 or written comments on the petition.

265 (B) If published in the print edition of a newspaper, the advertisement shall not be
266 placed in the portion of the newspaper where legal notices and classified advertisements
267 appear. The advertisement shall be published in the legal organ of the applicable
268 county, counties, municipality, or municipalities.

269 (C) The county or municipality holding such public hearing may by resolution express
270 its support of, or objection to the granting of, the petition. A resolution shall base any
271 objection to the granting of the petition upon the factors specified in paragraph (5) of
272 this subsection;

273 (5) In making its determination to grant or deny a petition for the establishment of a
274 community development district, the applicable general purpose local government shall
275 consider the record of the public hearing and:

276 (A) Whether all statements contained within the petition have been found to be true
277 and correct;

278 (B) Whether the proposed district projects are consistent or inconsistent with any
279 applicable element or portion of the applicable general purpose local government's

280 comprehensive plan adopted pursuant to Article 1 of Chapter 70 of this title or an
281 existing service delivery agreement pursuant to Article 2 of Chapter 70 of this title;
282 (C) Whether the area of land within the proposed district is of sufficient size, is
283 sufficiently compact, and is sufficiently contiguous to be developable as one functional
284 interrelated community;
285 (D) Whether the district is the best alternative available for delivering community
286 development services and facilities to the area that will be served by the district;
287 (E) Whether the community development services and facilities of the district will be
288 incompatible with the capacity and uses of existing local and regional community
289 development services and facilities; and
290 (F) Whether the creation of the district is compatible with the applicable general
291 purpose local government in general and will supplement rather than be a detriment to
292 the general population;
293 (6) No applicable general purpose local government shall adopt any resolution or
294 ordinance which would expand, modify, or delete any provision of this chapter. A
295 resolution or ordinance establishing a community development district shall only include
296 the matters provided for in paragraph (7) of this subsection unless the applicable general
297 purpose local government consents to any of the optional powers under paragraph (2) of
298 Code Section 36-93-10 at the request of the petitioner; and
299 (7) Any resolution or ordinance establishing a community development district shall only
300 contain the following:
301 (A) A description of the property to be located within the boundaries of the district by
302 metes and bounds description, plat or block and lot reference, rectangular survey
303 system, or any combination thereof, and any real property within the external
304 boundaries of the district which is to be excluded;
305 (B) The names of five persons designated to be the initial members of the board of
306 supervisors;

307 (C) The name of the district; and

308 (D) Other information required or authorized by this chapter.

309 (b) A district created pursuant to this chapter is not a general purpose local government
310 and specifically shall not be included in the term 'local government' as that term is defined
311 in Code Section 36-70-2, and the creation of a district shall not override any agreement
312 entered into between local governing authorities pursuant to Article 2 of Chapter 70 of this
313 title or any other provision of law.

314 (c) The powers granted to a district pursuant to paragraph (2) of Code Section 36-93-10
315 may be exercised by a board upon execution of an agreement between such board and the
316 applicable general purpose local government or governments. Such agreement shall
317 include reasonable terms, including, but not limited to, describing the services and facilities
318 to be provided within the district and the source of funding for such services and facilities.
319 If such agreement is amended, the amendment or amendments shall be agreed to by mutual
320 consent of the board and the applicable general purpose local government or governments.

321 36-93-5.

322 (a) A board shall exercise the powers granted to a district pursuant to this chapter. A board
323 shall consist of five members. Except as otherwise provided in this Code section, each
324 member shall hold office for a term of two years or four years, as provided in this Code
325 section, and until a successor is chosen and qualified. The members of a board shall be at
326 least 18 years old, residents of this state, and citizens of the United States. The provisions
327 of Code Section 45-10-3 shall apply to all members of a board who are elected pursuant
328 to this Code section and their successors.

329 (b)(1) Within 90 days following the effective date of the resolution or ordinance
330 establishing a district, there shall be held a meeting of the landowners of such district for
331 the purpose of electing five supervisors for such district. Notice of the landowners'
332 meeting shall be published once a week for two consecutive weeks in the legal organ of

333 the applicable county or municipality, the last day of such publication to be not fewer
334 than 14 days nor more than 28 days before the date of the election. The landowners,
335 when assembled at such meeting, shall organize by electing a chairperson who shall
336 conduct the meeting. The chairperson may be any person present at the meeting. If the
337 chairperson is a landowner or proxy holder of a landowner, he or she may nominate
338 candidates and make and second motions.

339 (2) At such meeting, each landowner shall be entitled to cast one vote per acre of land
340 owned by him or her and located within the district for each person to be elected. A
341 landowner may vote in person or by proxy in writing. Each proxy shall be signed by one
342 of the legal owners of the property for which the vote is cast and shall contain the typed
343 or printed name of the individual who signed the proxy; the street address, legal
344 description, or tax parcel identification number of the property entitling such landowner
345 to vote; and the number of authorized votes. If the proxy authorizes more than one vote,
346 each property entitling the landowner to vote shall be listed and the number of acres of
347 each property shall be included. The signature on a proxy need not be notarized. A
348 fraction of an acre shall be treated as one acre, entitling the landowner to one vote with
349 respect thereto. For purposes of determining voting interests, platted lots shall be counted
350 individually and rounded up to the nearest whole acre. The acreage of platted lots shall
351 not be aggregated for determining the number of voting units held by a landowner or a
352 landowner's proxy. The two candidates receiving the highest number of votes shall be
353 elected for terms of four years, and the three candidates receiving the next largest number
354 of votes shall be elected for terms of two years, with the term of office for each successful
355 candidate commencing upon election. The members of the first board elected by
356 landowners shall serve their respective four-year or two-year terms; provided, however,
357 that the next election by landowners shall be held on the first Tuesday in November.
358 Thereafter, there shall be an election of supervisors for the district every two years in
359 November on a date established by the board and noticed pursuant to paragraph (1) of

360 this subsection. The second and subsequent landowners' election shall be announced at
361 a public meeting of the board at least 90 days prior to the date of the landowners' meeting
362 and shall also be noticed pursuant to paragraph (1) of this subsection. Instructions on
363 how all landowners may participate in the election, along with sample proxies, shall be
364 provided during the board meeting that announces the landowners' meeting. The two
365 candidates receiving the highest number of votes shall be elected to serve for a four-year
366 term, and the remaining candidate elected shall serve for a two-year term.

367 (c)(1) Commencing six years after the initial appointment of members or, for a district
368 exceeding 5,000 acres in area, ten years after the initial appointment of members, the
369 position of each member whose term has expired shall be filled by a qualified elector of
370 the district, elected by the qualified electors of the district. If, in the sixth year after the
371 initial appointment of members, or in the tenth year after such initial appointment for
372 districts exceeding 5,000 acres in area, there are not at least 250 qualified electors in the
373 district, or there are not at least 500 qualified electors in a district exceeding 5,000 acres,
374 members of the board shall continue to be elected by landowners.

375 (2) After the sixth or tenth year, once a district reaches 250 or 500 qualified electors,
376 respectively, the positions of two board members whose terms are expiring shall be filled
377 by qualified electors of the district, elected by the qualified electors of the district for
378 four-year terms. The remaining board member whose term is expiring shall be elected
379 for a four-year term by the landowners and is not required to be a qualified elector.
380 Thereafter, as terms expire, board members shall be qualified electors elected by qualified
381 electors of the district for terms of four years.

382 (3) On or before June 1 of each year, the board shall determine the number of qualified
383 electors in the district as of the immediately preceding April 15. The board shall use and
384 rely upon the official records maintained by the election superintendent and property
385 appraiser or tax collector in each applicable county in making such determination. Such

386 determination shall be made at a properly noticed meeting of the board and shall become
387 a part of the official minutes of the district.

388 (4) The board shall organize district elections which shall be held at a meeting of the
389 landowners of the district. Notice of the meeting and the election of board members shall
390 be published once a week for two consecutive weeks in the legal organ of the applicable
391 county, counties, municipality, or municipalities and the last day of such publication shall
392 be not fewer than 14 days nor more than 28 days before the meeting; provided, however,
393 that such notice shall not be published in the area reserved for legal advertisements. The
394 chairperson of the board shall conduct the meeting. If the chairperson is a qualified
395 elector or proxy holder for a qualified elector or landowner, he or she may nominate
396 candidates and make and second motions.

397 (d) Each qualified elector and landowner shall be entitled to vote commensurate with his
398 or her ownership interest in the district. At a district election, each qualified elector and
399 landowner shall be entitled to cast one vote per acre of land owned by him or her, located
400 within the district, for each member to be elected by landowners or qualified electors as
401 provided in this subsection; provided, however, that a qualified elector shall not cast a vote
402 representing any land currently used or identified for future use of district facilities,
403 infrastructure, or other district specific purposes including common areas. No qualified
404 elector shall cast votes representing more than 15 percent of the available votes. A
405 qualified elector or landowner may vote in person or by a properly executed written proxy.
406 Each proxy shall be signed by one of the landowners of the property for which the vote is
407 cast and shall contain the typed or printed name of the individual who signed the proxy; the
408 street address, legal description, or tax parcel identification number of the property entitling
409 such landowner to vote; and the number of authorized votes. If the proxy authorizes more
410 than one vote, each property entitling such landowner to vote shall be listed and the number
411 of acres of each property shall be included. The signature on a proxy need not be
412 notarized. A fraction of an acre shall be treated as one acre, entitling the qualified elector

413 to one vote with respect thereto. In the event that an acre or a fraction of an acre is jointly
414 owned, only one such owner shall be entitled to vote as a qualified elector. Nominees for
415 the board shall be elected by a majority of votes cast in accordance with this subsection.
416 (e) Elections of board members shall be nonpartisan. Board members shall assume their
417 office immediately upon their election.
418 (f) Members of the board shall be known as supervisors and shall hold office for the terms
419 for which they were elected or appointed and until their successors are chosen and
420 qualified. If, during the term of office, a vacancy occurs, the remaining members of the
421 board shall fill the vacancy by an appointment for the remainder of the unexpired term.
422 (g) A majority of the members of the board constitutes a quorum for the purposes of
423 conducting its business and exercising its powers and for all other purposes. Action taken
424 by the district shall be upon a vote of a majority of the members present unless general law
425 or a rule of the district requires a greater number.
426 (h) As soon as practicable after each election or appointment, the board shall organize by
427 electing one of its members as chairperson and by electing a secretary, who need not be a
428 member of the board, and such other officers as the board may deem necessary.
429 (i) The board shall keep a permanent record book entitled 'Record of Proceedings of
430 (Name of District) Community Development District,' in which shall be recorded minutes
431 of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and
432 any and all corporate acts. The record book and any other documents shall be open to
433 inspection and governed by the provisions of Article 4 of Chapter 18 of Title 50. The
434 record book shall be kept at the office or other regular place of business maintained by the
435 board in the county or municipality in which the district is located.
436 (j) Each supervisor shall be entitled to receive for his or her services an amount not to
437 exceed \$200.00 per meeting of the board of supervisors, not to exceed \$4,800.00 per year
438 per supervisor, or an amount established by the qualified electors at referendum. In
439 addition, each supervisor may receive travel and per diem expenses as approved by the

440 board and as otherwise allowed by law. All meetings of the board shall be open to the
441 public and governed by the provisions of Chapter 14 of Title 50. The board shall hold at
442 least one annual meeting on the same date every year, such date to be published as part of
443 the resolution or ordinance creating the district. The meeting shall begin no earlier than
444 6:00 P.M. nor later than 7:00 P.M. and shall address issues related to the district, including,
445 but not limited to, current projects, district finances, and potential future projects. In
446 addition, the board shall make available to any person upon request a report of the names
447 and contact information of the board members, their employers, and their relationships to
448 other members of the board and to any officer or employee of the developer.

449 36-93-6.

450 (a) A board shall employ, and fix the compensation of, a district manager. Such district
451 manager shall have charge and supervision of the works of the district and shall be
452 responsible for preserving and maintaining any improvement or facility constructed or
453 erected pursuant to the provisions of this chapter, for maintaining and operating the
454 equipment owned by the district, and for performing such other duties as may be prescribed
455 by the board. It shall not be a conflict of interest for a board member or the district
456 manager or another employee of the district to be a stockholder, officer, or employee of a
457 landowner or of an entity affiliated with a landowner or to vote on matters affecting such
458 landowner or affiliated entity. A board member or an employee of a district does not abuse
459 his or her position if the board member or employee commits an act or omission that is
460 otherwise authorized under this subsection. A district manager may hire or otherwise
461 employ and terminate the employment of such other persons, including, without limitation,
462 professional, supervisory, and clerical employees, as may be necessary and authorized by
463 the board. The compensation and other conditions of employment of the officers and
464 employees of the district shall be as provided by the board.

465 (b) A board shall designate a person who is a resident of this state, but not a current
466 member of the board, as treasurer of a district, who shall have charge of the funds of the
467 district. Such funds shall be disbursed only upon the order, or pursuant to the resolution,
468 of the board by warrant or check countersigned by the treasurer and by such other person
469 as may be authorized by the board. A board may give the treasurer such other or additional
470 powers and duties as the board deems appropriate and may fix his or her compensation.
471 A board may require the treasurer to give a bond in such amount, on such terms, and with
472 such sureties as deemed satisfactory by the board to secure the performance by the
473 treasurer of his or her powers and duties. The financial records of a board shall be audited
474 by an independent certified public accountant at least once a year. The results of such audit
475 shall be recorded in the district's record book and made available to the public pursuant to
476 subsection (i) of Code Section 36-93-5. A district shall file its audits annually with the
477 Department of Audits and Accounts.

478 (c) A board is authorized to select as a depository for its funds any commercial bank or
479 trust company, mutual savings bank, savings and loan association, or building and loan
480 association existing under the laws of this state or of the United States upon such terms and
481 conditions as to the payment of interest by such depository upon the funds so deposited as
482 such board deems just and reasonable.

483 36-93-7.

484 (a) The fiscal year for each district shall be July 1 to June 30.

485 (b)(1) On or before March 15 of each year, the district manager shall prepare a proposed
486 budget for the ensuing fiscal year to be submitted to the board for board approval. The
487 proposed budget shall include at the direction of the board an estimate of all necessary
488 expenditures of the district for the ensuing fiscal year and an estimate of income to the
489 district from assessments and other revenues provided for in this chapter. The board shall
490 consider the proposed budget item by item and may either approve the budget as

491 proposed by the district manager or modify the same in part or in whole. The board shall
492 indicate its approval of the budget by resolution, which resolution shall provide for a
493 hearing on the budget as approved. Notice of the hearing on the budget shall be
494 published in the legal organ of the applicable county, counties, municipality, or
495 municipalities once a week for two consecutive weeks, except that the first publication
496 shall be not fewer than 15 days prior to the date of the hearing. The notice shall further
497 contain a designation of the day, time, and place of the public hearing. At the time and
498 place designated in the notice, the board shall hear all objections to the budget as
499 proposed and may make such changes as the board deems necessary. At the conclusion
500 of the budget hearing, the board shall, by resolution, adopt the budget as finally approved
501 by the board. The budget shall be adopted prior to July 1 of each year.

502 (2) At least 60 days prior to adoption of the budget, a board shall submit to the applicable
503 general purpose local government or governments, for purposes of disclosure and
504 information only, the proposed annual budget for the ensuing fiscal year and any
505 proposed long-term financial plan or program of the district for future operations.

506 (3) Any applicable general purpose local government may review the proposed annual
507 budget and any long-term financial plan or program and may submit written comments
508 to a board for its assistance and information in adopting its annual budget and any
509 long-term financial plan or program.

510 36-93-8.

511 (a) A district shall take affirmative steps to provide for the full disclosure of information
512 relating to the public financing and maintenance of improvements to real property
513 undertaken by a district. Such information shall be made available to all existing residents,
514 and to all prospective residents, of the district. A district shall furnish each developer of
515 a residential development within the district with sufficient copies of that information to
516 provide each prospective initial purchaser of property in that development with a copy, and

517 any developer of a residential development within the district, when required by law to
518 provide a public offering statement, shall include a copy of such information relating to the
519 public financing and maintenance of improvements in the public offering statement.

520 (b) The Department of Community Affairs shall keep a current list of districts and their
521 disclosures pursuant to this chapter and shall make such studies and reports and take such
522 actions as it deems necessary.

523 36-93-9.

524 A district shall have, and a board may exercise, the following powers:

525 (1) To sue and be sued in the name of the district; to adopt and use a seal and authorize
526 the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to
527 dispose of, real and personal property, or any estate therein; provided, however, that a
528 district may only acquire property through eminent domain in accordance with Code
529 Section 36-93-11;

530 (2) To make and execute contracts and other instruments necessary or convenient to the
531 exercise of its powers. All public works contracts shall be made in accordance with the
532 provisions of Chapter 91 of this title. All contracts let by the board for any goods,
533 supplies, or materials to be purchased exceeding \$100,000.00 shall require a notice of
534 bids be advertised twice in the legal organ of the county allowing a reasonable amount
535 of time for responsive bids to be submitted and shall be subject to this Code section. The
536 bid of the lowest responsive and responsible bidder for contracts for purchase of any
537 goods, supplies, or materials shall be accepted unless all bids are rejected because the
538 bids are too high or the board determines it is in the best interests of the district to reject
539 all bids. The board may require such bidders to furnish bonds with a responsible surety
540 to be approved by the board. Contracts for the operation, maintenance, and management
541 of district projects shall contain the following provisions:

542 (A) With the exception of contracts with the federal government, the state, a state or
543 local authority, a local board of education, or a political subdivision of the state, any
544 district contract shall terminate absolutely and without further obligation on the part of
545 the district at the close of the calendar year in which it was executed and at the close of
546 each succeeding calendar year for which it may be renewed as provided in this Code
547 section; and

548 (B) The contract may provide for automatic renewal unless positive action is taken by
549 the district to terminate such contract, and the nature of such action shall be determined
550 by the district and specified in the contract;

551 (3) To contract for the services of consultants to perform planning, engineering, legal,
552 or other appropriate services of a professional nature. Such contracts shall be subject to
553 public bidding or competitive negotiation requirements if otherwise required by law;

554 (4) To borrow money and accept gifts; to apply for and use grants or loans of money or
555 other property from the United States, the state, a general purpose local government, or
556 any person for any district purposes and enter into agreements required in connection
557 therewith; and to hold, use, and dispose of such moneys or property for any district
558 purposes in accordance with the terms of the gift, grant, loan, or agreement relating
559 thereto;

560 (5) To adopt resolutions and orders prescribing the powers, duties, functions, and ethical
561 requirements of the officers of the district; the conduct of the business of the district; the
562 maintenance of records; and the form of certificates evidencing assessment liens and all
563 other documents and records of the district. The board may also adopt resolutions with
564 respect to any of the projects of the district and define the area to be included therein.
565 The board may also adopt resolutions which may be necessary for the conduct of district
566 business;

567 (6) To maintain an office at such place or places as it may designate within a county in
568 which the district is located;

- 569 (7) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of,
570 any public easements, dedications to public use, platted reservations for public purposes,
571 or reservations for those purposes authorized by this chapter and to make use of such
572 easements, dedications, or reservations for any of the purposes authorized by this chapter;
- 573 (8) To lease as lessor or lessee to or from any person, firm, corporation, association, or
574 body, public or private, any projects of the type that the district is authorized to undertake
575 and facilities or property of any nature for the use of the district to carry out any of the
576 purposes authorized by this chapter;
- 577 (9) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of
578 indebtedness as provided in this Code section; to levy such taxes and special assessments
579 as may be authorized; and to charge, collect, and enforce fees and other user charges.
580 The district may incur debt without regard to the requirements of Article IX, Section V
581 of the Constitution or any other provision of law prohibiting or restricting the borrowing
582 of money or the creation of debt by political subdivisions of this state. Debt of the district
583 may be backed by the full faith and credit of the district but shall not be an obligation of
584 the state, the applicable general purpose local government or governments, or any local
585 government or other unit of government of this state;
- 586 (10) To raise, by user charges or fees authorized by resolution of the board, amounts of
587 money which are necessary for the conduct of the district activities and services and to
588 enforce their receipt and collection in the manner prescribed by resolution not
589 inconsistent with law;
- 590 (11) To cooperate with, or contract with, other governmental agencies as may be
591 necessary, convenient, incidental, or proper in connection with any of the powers, duties,
592 or purposes authorized by this chapter;
- 593 (12) To assess, levy, impose, collect, and enforce upon lands in the district ad valorem
594 taxes as provided by this chapter;

595 (13) To determine, order, levy, impose, collect, and enforce special assessments pursuant
596 to this chapter;

597 (14) To exercise all of the powers necessary, convenient, incidental, or proper in
598 connection with any of the powers, duties, or purposes authorized by this chapter,
599 including any power granted by the laws of this state to public or private corporations
600 which is not in conflict with this chapter or with the purposes of the district; and

601 (15) To exercise such special powers as may be authorized by this chapter.

602 36-93-10.

603 A district shall have, and a board may exercise, subject to the regulatory jurisdiction and
604 permitting authority of all applicable general purpose local governments, and other
605 governmental bodies, agencies, and special districts having authority with respect to any
606 area included therein, any or all of the following special powers relating to public
607 improvements and community facilities authorized by this chapter:

608 (1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend,
609 equip, operate, and maintain systems, facilities, and basic infrastructures for the following
610 purposes, provided that such systems, facilities, and basic infrastructures shall be built
611 according to the then-current specifications applicable to or within the jurisdiction or the
612 service area of the service delivery provider in which such systems, facilities, and basic
613 infrastructures are to be located and the district shall be subject to Chapter 9 of Title 25
614 and other provisions of state or federal law that are generally applicable to government
615 entities providing the same infrastructure, facility, or service as the district, and provided,
616 further, that exercising such powers shall constitute an essential governmental function
617 for a public purpose:

618 (A) Water management and control for the lands within the district and to connect
619 some or any of such facilities with roads and bridges;

620 (B) Water supply, sewer, and wastewater management, reclamation, and reuse or any
621 combination thereof, and to construct and operate connecting intercepting or outlet
622 sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and
623 under any street, alley, highway, or other public place or ways; to connect such mains,
624 conduits, and pipelines with existing infrastructure upon entering into an agreement to
625 do so with the owner of such existing infrastructure; and to dispose of any effluent,
626 residue, or other byproducts of such system or sewer system. Such sewerage or
627 sewerage system shall have the same rights, duties, and obligations as publicly owned
628 treatment works that discharge treated waste water;

629 (C) Bridges or culverts that may be needed across any drain, ditch, canal, floodway,
630 holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over
631 levees and embankments, and to construct any and all of such works and improvements
632 across, through, or over any public right-of-way, highway, grade, fill, or cut;

633 (D)(i) District roads equal to or exceeding the applicable specifications of the county
634 in which such district roads are located; roads and improvements to existing public
635 roads that are owned by or conveyed to the applicable general purpose local
636 government, the state, or the federal government; street lights; alleys; landscaping;
637 hardscaping; and the undergrounding of electric utility lines.

638 (ii) Buses, trolleys, transit shelters, ridesharing facilities and services, parking
639 improvements, and related signage;

640 (E) Investigation and remediation costs associated with the cleanup of actual or
641 perceived environmental contamination within the district under the supervision or
642 direction of a competent governmental authority unless the expenditure of investigation
643 and remediation costs benefit any person who is a landowner within the district and
644 who caused or contributed to the contamination;

645 (F) Conservation areas, mitigation areas, and wildlife habitats, including the
646 maintenance of any plant or animal species, and any related interest in real or personal
647 property, including green spaces and common areas;

648 (G) Any other project within or outside the boundaries of a district consistent with the
649 applicable general purpose local government's comprehensive plan;

650 (H) Parks and facilities for indoor and outdoor recreational, cultural, and educational
651 uses;

652 (I) Natural gas distribution facilities to be connected with and used by an existing
653 municipal natural gas system to provide natural gas to the district; and

654 (J) Security, including, but not limited to, guardhouses, fences and gates, electronic
655 intrusion-detection systems, and patrol cars, when authorized by proper governmental
656 agencies, except that the district shall not exercise any police power but may contract
657 with the applicable general purpose local government agencies for an increased level
658 of such services within the district boundaries; provided, however, that this
659 subparagraph shall not prohibit a district from contracting with a towing operator to
660 remove a vehicle or vessel from a district owned facility or property if otherwise
661 authorized;

662 (2) To finance, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip,
663 and maintain additional systems, facilities, and basic infrastructures for the following
664 purposes, provided that such systems, facilities, and basic infrastructures shall be built
665 according to the then-current specifications applicable to or within the jurisdiction or the
666 service area of the service delivery provider in which such systems, facilities, and basic
667 infrastructures are to be located, and provided, further, that exercising such powers shall
668 constitute an essential governmental function for a public purpose:

669 (A) Fire prevention and control, including fire stations, water mains and plugs, fire
670 trucks, and other vehicles and equipment when authorized by the service delivery
671 provider and pursuant to a written agreement with such service delivery provider;

- 672 (B) School buildings and related structures which may be leased, sold, or donated for
673 use in the public educational system when authorized by the local board of education;
674 (C) Control and elimination of pests of public health importance; and
675 (D) Waste collection and disposal when authorized by the service delivery provider
676 and pursuant to a written agreement with such service delivery provider;
677 (3) To adopt and enforce appropriate resolutions in connection with the provision of one
678 or more services through its projects; and
679 (4) To demolish buildings or other facilities located in areas of a district that are within
680 the limits of a municipality and to redevelop areas located in a district that is authorized
681 within the limits of a municipality.

682 36-93-11.

683 A board may exercise the right and power of eminent domain as follows:

- 684 (1) Within the district pursuant to general law over any property within this state, except
685 municipal, county, state, and federal property, solely for the uses and purposes of the
686 district relating to water, sewer, district roads, and water management, including, without
687 limitation, the power for the taking of easements for the drainage of the land of one
688 person over and through the land of another; and
689 (2) Beyond the boundaries of the district only with prior approval by resolution of the
690 governing body of the county if the taking will occur in an unincorporated area or with
691 prior approval by resolution of the governing body of the municipality if the taking will
692 occur within a municipality.

693 36-93-12.

694 In addition to such authority as provided elsewhere in this chapter, a district may adopt and
695 enforce reasonable rules and regulations to:

- 696 (1) Secure and maintain safe, sanitary, and adequate plumbing installations, connections,
697 and appurtenances as subsidiary parts of its sanitary sewer system;
698 (2) Preserve the sanitary condition of all water controlled by the district;
699 (3) Prevent waste or the unauthorized use of water controlled by the district;
700 (4) Provide and regulate a safe and adequate freshwater distribution system; and
701 (5) Regulate activities on any land or any easement owned or controlled by the district;
702 provided, however, that the applicable general purpose local government shall retain all
703 home rule and police powers, including, but not limited to, code enforcement, regulatory
704 authority, zoning powers, and land use control powers under the laws of this state.

705 36-93-13.

706 In addition to the other powers provided for in this chapter, and not in limitation thereof,
707 a district shall have the power, at any time, and from time to time, to borrow money for the
708 purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds
709 of the sale of such bonds and to issue bond anticipation notes and to renew from time to
710 time any such notes by the issuance of new notes, whether the notes to be renewed have
711 matured. A district may issue such bond anticipation notes only to provide funds which
712 otherwise would be provided by the issuance of the bonds. Bond anticipation notes shall
713 not be issued in an amount exceeding the par value of the bonds in anticipation of which
714 they are to be issued. Bond anticipation notes may be authorized, sold, executed, and
715 delivered in the same manner as bonds. As with its bonds, bond anticipation notes may be
716 sold at either public or private sale or, if such notes are renewal notes, may be exchanged
717 for notes then outstanding on such terms as the board shall determine. Any resolution or
718 resolutions authorizing notes of a district or any issue thereof may contain any provisions
719 which the district is authorized to include in any resolution or resolutions authorizing bonds
720 of the district or any issue thereof and which the district is authorized to include in any
721 bonds. Such notes shall be paid from the proceeds of such bonds when issued.

722 36-93-14.

723 A district at any time may obtain loans, in such amount and on such terms and conditions
724 as a board may approve, for the purpose of paying any of the expenses of the district or any
725 costs incurred or that may be incurred in connection with any of the projects of the district
726 and related operation and maintenance costs of the projects of the district. Such loans shall
727 bear such interest as the board may determine and may be payable from and secured by a
728 pledge of such funds, revenues, taxes, and assessments as the board may determine, subject
729 to the provisions contained in any proceeding under which bonds were theretofore issued
730 and are then outstanding; provided, however, that the board shall disclose the interest rate
731 or rates payable on such loans and shall notify each property owner of his or her share of
732 such costs as will be repaid on such loan or loans.

733 36-93-15.

734 (a) Bonds, notes, or other obligations issued by a district shall be paid from revenues and
735 other property pledged to pay such bonds, notes, or other obligations. In the event a district
736 defaults on its obligations, landowners shall only be responsible for such obligations that
737 are associated with their property and not the obligations of the district as a whole or the
738 obligations of any other landowner. Landowners shall have the right to satisfy or make
739 arrangements to satisfy the proportionate share of obligations related to the district and any
740 related reasonable interest.

741 (b) Bonds may be sold in blocks or installments at different times, or an entire issue or
742 series may be sold at one time. Bonds may be sold at public or private sale after such
743 advertisement, if any, as the board may deem advisable. Bonds may be sold or exchanged
744 for refunding bonds. Revenue bonds may be delivered by the district as payment of the
745 purchase price of any project or part thereof, or a combination of projects or parts thereof,
746 or as the purchase price or exchange for any property, real, personal, or mixed, including
747 franchises or services rendered by any contractor, engineer, or other person, all at one time

748 or in blocks from time to time, in such manner and upon such terms as the board in its
749 discretion shall determine. The price or prices for any bonds sold, exchanged, or delivered
750 may be:

751 (1) The money paid for the bonds;

752 (2) The principal amount, plus accrued interest to the date of redemption or exchange,
753 or outstanding obligations exchanged for refunding bonds; or

754 (3) In the case of revenue bonds, the amount of any indebtedness to contractors or other
755 persons paid with such bonds, or the fair value of any properties exchanged for the bonds,
756 as determined by the board.

757 (c) Any general obligation bonds or revenue bonds may be authorized by resolution or
758 resolutions of a board which shall be adopted by a majority of all the members thereof then
759 in office. Such resolution or resolutions may be adopted at the same meeting at which they
760 are introduced and need not be published or posted. A board may, by resolution, authorize
761 the issuance of bonds and fix the aggregate amount of bonds to be issued, the purpose or
762 purposes for which the moneys derived therefrom shall be expended, including, but not
763 limited to, payment of costs as defined in this chapter; the rate or rates of interest, which
764 may be fixed or may fluctuate or otherwise change from time to time or be subject to
765 interest rate hedge arrangements; the denomination of the bonds; whether or not the bonds
766 are to be issued in one or more series; the date or dates of maturity, which shall not exceed
767 30 years from their respective dates of issuance; the medium of payment; the place or
768 places within or without the state where payment shall be made; registration privileges;
769 redemption terms and privileges, whether with or without premium; the manner of
770 execution; the form of the bonds, including any interest coupons to be attached thereto; the
771 manner of execution of bonds and coupons; and any and all other terms, covenants, and
772 conditions thereof and the establishment of revenue or other funds. A resolution
773 authorizing the issuance of the bonds may delegate to such officers charged with the
774 responsibility of issuing such bonds the authority to set the final terms, conditions, and

775 details thereof, including the interest rate or rates and maturity, within reasonable
776 parameters established and set forth in such resolution.

777 (d) Pending the preparation of definitive bonds, a board may issue interim certificates or
778 receipts or temporary bonds, in such form and with such provisions as such board may
779 determine, exchangeable for definitive bonds when such bonds have been executed and are
780 available for delivery. A board may also provide for the replacement of any bonds which
781 become mutilated, lost, or destroyed.

782 (e) Any bond issued under this chapter or any temporary bond, in the absence of an
783 express recital on the face thereof that it is nonnegotiable, shall be fully negotiable and
784 shall be and constitute a negotiable instrument within the meaning and for all purposes of
785 the law merchant and the laws of the state.

786 (f) A board may make such provision with respect to the defeasance of the right, title, and
787 interest of the holders of any of the bonds and obligations of a district in any revenues,
788 funds, or other properties by which such bonds are secured as such board deems
789 appropriate and, without limitation on the foregoing, may provide that when such bonds
790 or obligations become due and payable or shall have been called for redemption and the
791 whole amount of the principal and interest and premium, if any, due and payable upon the
792 bonds or obligations then outstanding shall be held in trust for such purpose and provision
793 shall also be made for paying all other sums payable in connection with such bonds or
794 other obligations, then and in such event the right, title, and interest of the holders of the
795 bonds in any revenues, funds, or other properties by which such bonds are secured shall
796 thereupon cease, terminate, and become void; and the board may apply any surplus in any
797 sinking fund established in connection with such bonds or obligations and all balances
798 remaining in all other funds or accounts other than money held for the redemption or
799 payment of the bonds or other obligations to any lawful purpose of the district as the board
800 shall determine.

801 (g) If the proceeds of any bonds are less than the cost of completing the project in
802 connection with which such bonds were issued, a board may authorize the issuance of
803 additional bonds, upon such terms and conditions as the board may provide in the
804 resolution authorizing the issuance thereof, but only in compliance with the resolution or
805 other proceedings authorizing the issuance of the original bonds.

806 (h) A board is authorized to provide by resolution for the issuance of bonds of the board
807 for the purpose of funding or refunding any bonds issued under the provisions of this
808 chapter and then outstanding, together with accrued interest thereon and premium, if any.

809 The issuance of such funding or refunding bonds, the maturities and all other details
810 thereof, the rights of the holders thereof, and the duties of the board in respect to the same
811 shall be governed by the provisions of this chapter insofar as the same may be applicable.

812 A district shall have the power to issue bonds to provide for the retirement or refunding of
813 any bonds or obligations of the district that at the time of such issuance are or subsequently
814 thereto become due and payable, or that at the time of issuance have been called or are or

815 will be subject to call for redemption within ten years thereafter, or the surrender of which
816 can be procured from the holders thereof at prices satisfactory to the board. Refunding

817 bonds may be issued at any time when in the judgment of a board such issuance will be
818 advantageous to the district. A board may by resolution confer upon the holders of such
819 refunding bonds all rights, powers, and remedies to which the holders would be entitled if

820 they continued to be the owners and had possession of the bonds for the refinancing of
821 which such refunding bonds are issued, including, but not limited to, the preservation of
822 the lien of such bonds on the revenues of any project or on pledged funds, without

823 extinguishment, impairment, or diminution thereof. The provisions of this chapter

824 pertaining to bonds of a district shall, unless the context otherwise requires, govern the
825 issuance of refunding bonds, the form and other details thereof, the rights of the holders
826 thereof, and the duties of the board with respect thereto.

827 (i)(1) Revenue bonds may be secured by, or payable from, the gross or net pledge of the
828 revenues to be derived from any project or combination of projects; from the rates, fees,
829 or other charges to be collected from the users of any project or projects; from any
830 revenue-producing undertaking or activity of a district; from special assessments; or from
831 any other source or pledged security. Such bonds shall not constitute an indebtedness of
832 a district, and the approval of the qualified electors shall not be required unless such
833 bonds are additionally secured by the full faith and credit and taxing power of a district.
834 (2) Any two or more projects may be combined and consolidated into a single project
835 and may hereafter be operated and maintained as a single project. The revenue bonds
836 authorized in this chapter may be issued to finance any one or more of such projects,
837 regardless of whether such projects have been combined and consolidated into a single
838 project. If a board deems it advisable, the proceedings authorizing such revenue bonds
839 may provide that a district may thereafter combine the projects then being financed or
840 theretofore financed with other projects to be subsequently financed by the district and
841 that revenue bonds to be thereafter issued by the district shall be on parity with the
842 revenue bonds then being issued, all on such terms, conditions, and limitations as shall
843 have been provided in the proceeding which authorized the original bonds.
844 (j)(1) A district shall have the power from time to time to issue general obligation bonds
845 to finance or refinance capital projects or to refund outstanding bonds in an aggregate
846 principal amount of general bonds outstanding at any one time not in excess of 35 percent
847 of the assessed value of the taxable property within the district as shown on the pertinent
848 tax records at the time of the authorization of the general obligation bonds for which the
849 full faith and credit of the district is pledged. Except for refunding bonds that satisfy the
850 conditions described in subparagraphs (e)(1)(A) through (e)(1)(D) of Code
851 Section 36-82-1, no general obligation bonds shall be issued unless the bonds are issued
852 to finance or refinance a capital project and the issuance has been approved at an election
853 within the district held in the same manner and under the same rules and regulations that

854 elections for officers of the general purpose local government wherein the district's land
855 lies are held. Such election shall be called to be held in the district by the board of
856 elections of the county wherein a majority of the district's land lies upon the request of
857 the board of the district. The expenses of calling and holding such election shall be at the
858 expense of the district, and the district shall reimburse the county for any expenses
859 incurred in calling or holding such election.

860 (2) A district may pledge its full faith and credit for the payment of the principal and
861 interest on such general obligation bonds and for any reserve funds provided therefor and
862 may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable
863 property in the district, to the extent necessary for the payment thereof, without
864 limitations as to rate or amount.

865 (3) If a board determines to issue general obligation bonds for more than one capital
866 project, the approval of the issuance of the bonds for each and all such projects may be
867 submitted to the electors on one and the same ballot. The failure of the electors to
868 approve the issuance of bonds for any one or more capital projects shall not defeat the
869 approval of bonds for any capital project which has been approved by the electors.

870 (4) In arriving at the amount of general obligation bonds permitted to be outstanding at
871 any one time pursuant to paragraph (1) of this subsection, there shall not be included any
872 general obligation bonds which are additionally secured by the pledge of:

873 (A) Special assessments levied in an amount sufficient to pay the principal and interest
874 on the general obligation bonds so additionally secured, which assessments have been
875 equalized and confirmed by resolution of the board;

876 (B) Revenues determined by the board to be sufficient to pay the principal and interest
877 on the general obligation bonds so additionally secured; or

878 (C) Any combination of assessments and revenues described in subparagraphs (A)
879 and (B) of this paragraph.

880 (k)(1) Notwithstanding any provisions of any other law to the contrary, all bonds issued
881 under the provisions of this chapter shall constitute legal investments for savings banks,
882 banks, trust companies, insurance companies, executors, administrators, trustees,
883 guardians, and other fiduciaries and for any board, body, agency, instrumentality, county,
884 municipality, or other political subdivision of the state and shall be and constitute security
885 which may be deposited by banks or trust companies as security for deposits of state,
886 county, municipal, or other public funds or by insurance companies as required or
887 voluntary statutory deposits.

888 (2) Any bonds issued by a district shall be incontestable in the hands of bona fide
889 purchasers or holders for value and shall not be invalid because of any irregularity or
890 defect in the proceedings for the issue and sale thereof.

891 (l) Any resolution authorizing the issuance of bonds may contain such covenants as a
892 board deems advisable, and all such covenants shall constitute valid and legally binding
893 and enforceable contracts between a district and the bondholders, regardless of the time of
894 issuance thereof. Such covenants may include, without limitation, covenants concerning
895 the disposition of the bond proceeds; the use and disposition of project revenues; the
896 pledging of revenues, taxes, and assessments; the obligations of the district with respect to
897 the operation of the project and the maintenance of adequate project revenues; the issuance
898 of additional bonds; the appointment, powers, and duties of trustees and receivers; the
899 acquisition of outstanding bonds and obligations; restrictions on the establishment of
900 competing projects or facilities; restrictions on the sale or disposal of the assets and
901 property of the district; the priority of assessment liens; the priority of claims by
902 bondholders on the taxing power of the district; the maintenance of deposits to assure the
903 payment of revenues by users of district facilities and services; the discontinuance of
904 district services by reason of delinquent payments; acceleration upon default; the execution
905 of necessary instruments; and the procedure for amending or abrogating covenants with the

906 bondholders and such other covenants as are deemed necessary or desirable for the security
907 of the bondholders.

908 (m)(1) All bonds issued under this chapter shall be validated pursuant to the procedures
909 set forth in Article 3 of Chapter 82 this title, the 'Revenue Bond Law.' Bonds shall bear
910 a certificate of validation. In the case where property within a district is within multiple
911 jurisdictions, validation shall occur in the jurisdiction within which the majority of the
912 property of the district lies. The signature of the clerk of the superior court may be made
913 on the certificate of validation of such bonds by facsimile or by manual execution, stating
914 the date on which such bonds were validated.

915 (2) In lieu of specifying the rate or rates of interest which such bonds are to bear and the
916 principal amount and maturities of such bonds, the notice to the district attorney; the
917 notice to the public of the time, place, and date of the validation hearing; and the petition
918 and complaint for validation shall state that the bonds when issued will bear interest at
919 a rate not exceeding a maximum per annum rate of interest which may be fixed or may
920 fluctuate or otherwise change from time to time, and that the principal amount will not
921 exceed an amount specified in and the final maturity date will not be later than a date
922 specified in such notices, petition, and complaint or may state that, in the event the bonds
923 are to bear different rates of interest for different maturity dates, none of such rates will
924 exceed the maximum rate so specified which may be fixed or may fluctuate or otherwise
925 change from time to time; provided, however, that nothing in this Code section shall be
926 construed as prohibiting or restricting the right of a board to sell such bonds at a discount,
927 even if in doing so the effective interest cost resulting therefrom would exceed the
928 maximum per annum interest rate specified in such notices and in the petition and
929 complaint.

930 (n) This chapter constitutes full and complete authority for the issuance of bonds and the
931 exercise of the powers of a district provided in this chapter. No procedures or proceedings,
932 publications, notices, consents, approvals, orders, acts, or things by a board, or any board,

933 officers, commission, department, agency, or instrumentality of a district, other than those
934 required by this chapter, shall be required to perform anything under this chapter, except
935 that the issuance or sale of bonds pursuant to the provisions of this chapter shall comply
936 with the general law requirements applicable to the issuance or sale of bonds by a district.
937 Nothing in this chapter shall be construed to authorize a district to utilize bond proceeds
938 to fund the ongoing operations of such district.

939 (o) The state pledges to the holders of any bonds issued under this chapter that it will not
940 limit or alter the rights of a district to own, acquire, construct, reconstruct, improve,
941 maintain, operate, or fulfill the terms of any agreement made with the holders of such
942 bonds or other obligations and that it will not in any way impair the rights or remedies of
943 such holders. Any limitations with respect to interest rates found in Article 3 of Chapter
944 82 of this title, the 'Revenue Bond Law,' or the usury laws of this state shall not apply to
945 obligations issued under this chapter.

946 (p) All bonds, notes, and other obligations issued under this chapter and interest paid and
947 all fees, charges, and other revenues derived by a district from the projects provided by this
948 chapter are exempt from all taxes of the state or of any political subdivision, agency, or
949 instrumentality thereof.

950 (q) A default on the bonds or obligations of a district shall not constitute a debt or
951 obligation of a general purpose local government or the state.

952 36-93-16.

953 Any issuance of bonds may be secured by a trust agreement by and between a district and
954 a corporate trustee or trustees, which may be any trust company or bank having the powers
955 of a trust company within or without this state. A resolution authorizing the issuance of
956 the bonds or such trust agreement may pledge the revenues to be received from any
957 projects of a district and may contain such provisions for protecting and enforcing the
958 rights and remedies of the bondholders as the board approves, including, without limitation,

959 covenants setting forth the duties of the district in relation to the acquisition, construction,
960 reconstruction, improvement, maintenance, repair, operation, and insurance of any projects;
961 the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and
962 application of all moneys and for the employment of consulting engineers in connection
963 with such acquisition, construction, reconstruction, improvement, maintenance, repair, or
964 operation. It shall be lawful for any bank or trust company within or without this state
965 which may act as a depository of the proceeds of bonds or of revenues to furnish such
966 indemnifying bonds or to pledge such securities as may be required by a district. Such
967 resolution or trust agreement may set forth the rights and remedies of the bondholders and
968 of the trustee, if any, and may restrict the individual right of action by bondholders. The
969 rights and remedies of bondholders shall be subject to the limitation specified in subsection
970 (a) of Code Section 36-93-15. A board may provide for the payment of proceeds of the
971 sale of the bonds and the revenues of any project to such officer, board, or depository as
972 it may designate for the custody thereof and may provide for the method of disbursement
973 thereof with such safeguards and restrictions as it may determine. All expenses incurred
974 in carrying out the provisions of such resolution or trust agreement may be treated as part
975 of the cost of operation of the project to which such trust agreement pertains.

976 36-93-17.

977 (a) A board shall have the power to impose and collect assessments on all taxable real
978 property in a district to construct and maintain district projects and to pay the costs thereof;
979 to pay the principal of, and interest on, any bonds of a district; and to provide for any
980 sinking or other funds established in connection with any such bonds. The district project
981 assessment shall be in addition to all other assessments provided for by law. The amount
982 of the assessment shall be determined by the board based upon a report of the district's
983 engineer and shall be equitably apportioned among the properties subject to such
984 assessments according to the need for governmental services and facilities created by the

985 degree of density of development of each such property. Such assessments shall be a lien
986 on the property against which imposed until paid and shall be enforceable in like manner
987 as taxes in the applicable general purpose local government, or as otherwise provided by
988 law.

989 (b) A board may impose and collect a maintenance and operation special assessment on
990 all taxable real property in a district to maintain, operate, or preserve the facilities and
991 projects of the district and to pay the costs thereof; to pay the principal of, and interest on,
992 any obligations of a district; and to provide for any sinking or other funds established in
993 connection with any such obligations. The amount of the assessment shall be determined
994 by the board based upon the operation and maintenance needs of the district and shall be
995 equitably apportioned among the properties subject to such assessments according to the
996 need for governmental services and facilities created by the degree of density of
997 development of each such property.

998 Maintenance and operation special assessments shall be a lien on the property against
999 which imposed until paid and shall be enforceable in like manner as taxes in the applicable
1000 general purpose local government, or as otherwise provided by law.

1001 (c) Any assessment imposed pursuant to this Code section may be collected by the
1002 applicable general purpose local government using the methods and procedures as
1003 designated by the tax authority of the applicable general purpose local government.

1004 Delinquent assessments shall bear the same interest and penalties as ad valorem taxes of
1005 the applicable general purpose local government and may be enforced and collected in the
1006 same manner. The applicable general purpose local government may retain a fee to
1007 reimburse the actual increased costs of preparing and mailing notices to collect such
1008 assessments for the board. The remaining proceeds shall be transmitted by the applicable
1009 general purpose local government to the board and shall be expended by the board only for
1010 the purposes authorized in this chapter.

1011 (d) A board shall impose the assessments provided for in this Code section between
1012 January 1 and August 1 of each calendar year and shall notify in writing the tax authority
1013 of the applicable general purpose local government by a date to be determined by the
1014 applicable general purpose local government and such general purpose local government
1015 shall include the assessment on its regular ad valorem tax bills. In the event assessments
1016 are imposed at an amount based on property valuation, a board shall use the assessed
1017 values of property contained in the tax digest approved by the county to determine the
1018 amount applicable to each property assessment.

1019 (e) If a parcel of real property is removed from a district or assessment becomes otherwise
1020 inapplicable to such parcel of real property, it shall continue to bear its assessment burden
1021 then extant until paid, including upon such event for bonded indebtedness of a district then
1022 outstanding until any bonded indebtedness then outstanding is paid or refunded.

1023 (f) Each property subject to fees or assessments imposed by a board for any public facility
1024 that is also subject to impact fees levied by the applicable general purpose local
1025 government shall receive a credit equal to the present value of all fees and assessments
1026 toward any impact fee as may be levied by the applicable general purpose local
1027 government against said property for system improvements which are in the same category
1028 as said public facility in accordance with Chapter 71 of this title, the 'Georgia Development
1029 Impact Fee Act.'

1030 (g) All bonds, notes, and other obligations issued according to this chapter and interest
1031 paid and all fees, charges, and other revenues derived by a district from the projects
1032 provided by this chapter are exempt from all taxes of the state or of any political
1033 subdivision, agency, or instrumentality thereof.

1034 (h) With the exception of maintenance and operation special assessments, district
1035 assessments may be made payable in no more than 30 yearly installments.

1036 (i) An elected board shall have the power to levy and assess an ad valorem tax on all the
1037 taxable property in a district to construct, operate, and maintain assessable improvements;

1038 to pay the principal of, and interest on, any general obligation bonds of a district; and to
1039 provide for any sinking or other funds established in connection with any such bonds. The
1040 ad valorem tax provided for in this subsection shall be in addition to county and all other
1041 ad valorem taxes provided for by law. Such tax shall be assessed, levied, collected, and
1042 enforced in the same manner and same time as county taxes.

1043 (j) In the case of a county which is by law or constitutional amendment subject to a
1044 maximum allowable mill rate for taxes levied by such county, and only in the case of such
1045 a county, ad valorem taxes or assessments imposed under this chapter by a district created
1046 within such county shall be considered assessments imposed by such county for purposes
1047 of the maximum allowable mill rate. No district created by such a county shall impose any
1048 assessments under this chapter unless the county governing authority has certified in
1049 writing to the district that the district assessments will not result in a violation of the
1050 maximum allowable mill rate applicable to the county.

1051 36-93-18.

1052 All taxes, assessments, rates, fees, rentals, and charges of a district provided for in this
1053 chapter, together with all penalties for default in the payment of the same and all costs in
1054 collecting the same, including reasonable attorney's fees and costs fixed by the court and
1055 taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year
1056 the property is liable to assessment and until paid, constitute a lien of equal dignity with
1057 the liens for state and county taxes and other taxes of equal dignity, notwithstanding the
1058 provisions of Code Section 48-2-56, with the liens for municipal taxes and other taxes of
1059 equal dignity with municipal taxes upon all the lands against which such assessments have
1060 been imposed. A sale of any of the real property within a district for state, county, or other
1061 taxes shall not operate to relieve or release the property so sold from the lien for subsequent
1062 district taxes or installments of district taxes, which lien may be enforced against such

1063 property as though no such sale thereof had been made. Nothing in this chapter shall affect
1064 the rights of lien holders for municipal taxes.

1065 36-93-19.

1066 (a) A district has the right to:

1067 (1) Pay any delinquent state, county, district, municipal, or other tax or assessment upon
1068 lands located wholly or partially within the boundaries of the district; and

1069 (2) Redeem or purchase any tax sales certificates issued or sold on account of any state,
1070 county, district, municipal, or other taxes or assessments upon lands located wholly or
1071 partially within the boundaries of the district.

1072 (b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by a district,
1073 together with all penalties for the default in payment of the same and all costs in collecting
1074 the same and reasonable attorney's fees and costs, shall constitute a lien in favor of a
1075 district of equal dignity, notwithstanding the provisions of Code Section 48-2-56, with the
1076 liens of municipal taxes and other taxes of equal dignity with municipal taxes upon all the
1077 real property against which the taxes were levied. The lien of a district may be enforced
1078 in the manner provided in this chapter.

1079 (c) In any sale of land, a district may certify to the tax commissioner, tax collector, or other
1080 public official holding such sale the amount of assessments due to such district upon the
1081 lands sought to be sold, and such district shall share in the disbursement of the sales
1082 proceeds in accordance with the provisions of this chapter and under the laws of this state.

1083 36-93-20.

1084 In the event that any assessments, rates, fees, rentals, charges, or delinquent penalties
1085 provided for in Code Section 36-93-20 are not paid when due and are in default for 60 days
1086 or more, the unpaid balance thereof and all interest accrued thereon, together with
1087 reasonable attorney's fees and costs, may be recovered by a district in a civil action.

1088 36-93-21.

1089 To the full extent permitted by law, a district shall require all lands, buildings, premises,
1090 persons, firms, and corporations within such district to use the water management and
1091 control facilities and water and sewer facilities of the district, or any other facility or
1092 service of the district when the district relies on the collection of any rates, fees, or charges
1093 to provide said facility or service or to pay principal and interest on debt obligations
1094 secured by a pledge of revenues generated by the collection of such rates, fees, and
1095 charges.

1096 36-93-22.

1097 (a) A district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or
1098 other charges, and to revise the same from time to time, for the facilities and services
1099 furnished by such district, within the limits of the district, including, but not limited to,
1100 recreational facilities, water management and control facilities, and water and sewer
1101 systems; to recover the costs of making connection with any district facility or system; and
1102 to provide for reasonable penalties against any user or property for any such rates, fees,
1103 rentals, or other charges that are delinquent.

1104 (b) No rates, fees, rentals, or other charges for any of the facilities or services of the district
1105 provided for in subsection (a) of this Code section shall be fixed until after a public hearing
1106 at which all the users of the proposed facility or services or owners, tenants, or occupants
1107 served or to be served thereby and all other interested persons shall have an opportunity to
1108 be heard concerning the proposed rates, fees, rentals, or other charges. Notice of such
1109 public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and
1110 other charges shall have been published in the legal organ of the applicable county,
1111 counties, municipality, or municipalities at least once and at least ten days prior to such
1112 public hearing. The rule-making hearing may be adjourned from time to time. After such
1113 hearing, such schedule or schedules, either as initially proposed or as modified or amended,

1114 may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals,
1115 or charges as finally adopted shall be kept on file in an office designated by the board and
1116 shall be open at all reasonable times to public inspection. The rates, fees, rentals, or
1117 charges so fixed for any class of users or property served shall be extended to cover any
1118 additional users or properties thereafter served which shall fall in the same class, without
1119 the necessity of any notice or hearing.

1120 (c) The rates, fees, rentals, and charges provided for in subsection (a) of this Code section
1121 shall be just and equitable and uniform for users of the same class, and when appropriate
1122 may be based or computed either upon the amount of service furnished, upon the average
1123 number of persons residing or working in or otherwise occupying the premises served, or
1124 upon any other factor affecting the use of the facilities furnished, or upon any combination
1125 of the foregoing factors, as may be determined by the board on an equitable basis.

1126 (d) The rates, fees, rentals, or other charges prescribed shall be such as will produce
1127 revenues, together with any other assessments, taxes, revenues, or funds available or
1128 pledged for such purpose, at least sufficient to:

1129 (1) Provide for all expenses of operation and maintenance of such facility or service;

1130 (2) Pay when due all bonds and interest thereon for the payment of which such revenues
1131 are, or shall have been, pledged or encumbered, including reserves for such purpose and
1132 bonds pursuant to this chapter.

1133 (e) A board shall have the power to enter into contracts for the use of the projects of a
1134 district and with respect to the services and facilities furnished or to be furnished by a
1135 district.

1136 36-93-23.

1137 In the event that any rates, fees, rentals, charges, or delinquent penalties provided for in
1138 Code Section 36-93-22 are not paid as and when due and are in default for 60 days or more,

1139 the unpaid balance thereof and all interest accrued thereon, together with reasonable
1140 attorney's fees and costs, may be recovered by a district in a civil action.

1141 36-93-24.

1142 In the event the fees, rentals, or other charges for water or sewer services are not paid when
1143 due, a board shall have the power, under such reasonable rules and regulations as such
1144 board may adopt, to discontinue and shut off such water or sewer services until such fees,
1145 rentals, or other charges, including interest, penalties, and charges for the shutting off and
1146 discontinuance and the restoration of such water or sewer services, are fully paid. For such
1147 purposes, a board may enter on any lands, waters, or premises of any person, firm,
1148 corporation, or body, public or private, within the district limits. Such delinquent fees,
1149 rentals, or other charges, together with interest, penalties, and charges for the shutting off
1150 and discontinuance and the restoration of such services or facilities and reasonable
1151 attorney's fees and costs and other expenses, may be recovered by a district, which may
1152 also enforce payment of such delinquent fees, rentals, or other charges by any other lawful
1153 method of enforcement.

1154 36-93-25.

1155 A board or any aggrieved person may have recourse to such remedies in law and at equity
1156 as may be necessary to ensure compliance with the provisions of this chapter, including
1157 injunctive relief to enjoin or restrain any person violating the provisions of this chapter or
1158 any bylaws, resolutions, regulations, rules, codes, or orders adopted under this chapter. In
1159 case any building or structure is erected, constructed, reconstructed, altered, repaired,
1160 converted, or maintained, or any building, structure, land, or water is used, in violation of
1161 this chapter or of any code, order, resolution, or other regulation made under authority
1162 conferred by this chapter or under law, a board, any landowner, any citizen residing in the
1163 district, or any governmental agency or general purpose local government with jurisdiction

1164 may institute any appropriate action or proceeding to prevent such unlawful erection,
1165 construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain,
1166 correct, or avoid such violation; to prevent the occupancy of such building, structure, land,
1167 or water; and to prevent any illegal act, conduct, business, or use in or about such premises,
1168 land, or water.

1169 36-93-26.

1170 Property, real or personal, that belongs to or is owned by a district, or in which a district
1171 has an ownership interest and is funded by a tax-exempt bond issued by such district, shall
1172 be exempt from levy and sale by virtue of an execution, and no execution or other judicial
1173 process shall issue against such property, nor shall any judgment against a district be a
1174 charge or lien on its property or revenues; provided, however, that nothing in this Code
1175 section shall apply to or limit the rights of bondholders to pursue any remedy for the
1176 enforcement of any lien or pledge given by a district in connection with any of the bonds
1177 or obligations of a district. In the event that taxes on such property become delinquent or
1178 government liens are placed on such property, the federal government, the state
1179 government, or any political subdivision of the state with an interest in such taxes or liens
1180 may pursue a civil action against a district to recover such moneys. Any such government
1181 shall be entitled to recover costs and attorney's fees and costs accrued in the pursuit of such
1182 action.

1183 36-93-27.

1184 (a) A landowner or a board may petition to contract or expand the boundaries of a district
1185 in the following manner:

1186 (1) The petition shall comply with the same provisions and contain the same information
1187 required by paragraphs (1) and (2) of subsection (a) of Code Section 36-93-4. In
1188 addition, if the petitioner seeks to expand the district, the petition shall describe the

1189 proposed timetable for construction of any district services in the area, the estimated cost
1190 of constructing the proposed services, and the designation of the future general
1191 distribution, location, and extent of public and private uses of land proposed for the area
1192 by the future land use plan element of the local government comprehensive plan then in
1193 force. If the petitioner seeks to contract the district, the petition shall describe what
1194 services and facilities are currently provided by the district to the area being removed,
1195 and the designation of the future general distribution, location, and extent of public and
1196 private uses of land proposed for the area by the future land element of the adopted local
1197 government comprehensive plan;

1198 (2) A petitioner shall submit to the applicable general purpose local government or
1199 governments an application fee to be established by the applicable general purpose local
1200 government or governments not to exceed \$500.00 per 100 acres to be added or removed
1201 from the district's boundaries and located within the jurisdiction of such general purpose
1202 local government or governments and not to exceed \$15,000.00 regardless of acreage, to
1203 defray administrative costs associated with the petition, including, but not limited to,
1204 legal fees and any other professional fees incurred by the general purpose local
1205 government or governments;

1206 (3) A public hearing shall be held in the same manner and with the same public notice
1207 as required in paragraph (4) of subsection (a) of Code Section 36-93-4. The applicable
1208 general purpose local government or governments shall consider the record of the public
1209 hearing and the factors set forth in paragraph (5) of subsection (a) of Code Section
1210 36-93-4 in making its determination to grant or deny a petition to amend the boundaries
1211 of a community development district;

1212 (4) The filing of the petition by the district board of supervisors constitutes consent of
1213 the landowners within the district. In all cases, written consent of those landowners
1214 whose land is to be added to or deleted from the district as provided in subparagraph
1215 (a)(2)(B) of Code Section 36-93-4 is required;

1216 (5) For a petition to establish a new district of less than 2,500 acres on land located
1217 solely in one county or one municipality, sufficiently contiguous lands located within the
1218 county or municipality which the petitioner anticipates adding to the boundaries of the
1219 district within ten years after the effective date of the resolution or ordinance establishing
1220 the district may also be identified. If such sufficiently contiguous land is identified, the
1221 petition shall include a legal description of each additional parcel within the sufficiently
1222 contiguous land, the current owner of the parcel, the acreage of the parcel, and the current
1223 land use designation of the parcel. At least 14 days before the hearing required under
1224 paragraph (4) of subsection (a) of Code Section 36-93-4, the petitioner shall give the
1225 current owner of each such parcel notice of filing the petition to establish the district, the
1226 date and time of the public hearing on the petition, and the name and address of the
1227 petitioner. A parcel shall not be included in the district without the written consent of the
1228 owner of the parcel; and

1229 (6)(A) After establishment of a district, a person may petition the county or
1230 municipality to amend the boundaries of the district to include a previously identified
1231 parcel that was a proposed addition to the district before its establishment. No filing
1232 fee shall be charged for such petition. Each such petition shall include:

1233 (i) A description of the property to be added to the boundaries of the district by metes
1234 and bounds description, plat or block and lot reference, rectangular survey system, or
1235 any combination thereof;

1236 (ii) Written consent of all owners of the parcel to be added;

1237 (iii) A map of the district including the parcel to be added;

1238 (iv) A description of the development proposed on the additional parcel; and

1239 (v) A copy of the original petition identifying the parcel to be added.

1240 (B) Before filing with the county or municipality, the person shall provide the petition
1241 to the district and to the owner of the proposed additional parcel, if the owner is not the
1242 petitioner.

1243 (C) Once the petition is determined sufficient and complete, the county or municipality
1244 shall process the addition of the parcel to the district as an amendment to the ordinance
1245 or resolution that established the district.

1246 (D) The petitioner shall cause to be published in the legal organ of the applicable
1247 county, counties, municipality, or municipalities a notice of the intent to amend the
1248 ordinance or resolution that established the district. The notice shall be in addition to
1249 any notice required for adoption of the resolution or ordinance amendment. The notice
1250 shall include a general description of the land to be added to the district and the date
1251 and time of the scheduled hearing to amend the ordinance. The petitioner shall deliver,
1252 including by mail or hand delivery, the notice of the hearing on the ordinance
1253 amendment to the owner of the parcel and to the district at least 14 days before the
1254 scheduled hearing.

1255 (E) The amendment of a district by the addition of a parcel pursuant to this paragraph
1256 does not alter the transition from landowner voting to qualified elector voting pursuant
1257 to Code Section 36-93-5, even if the total size of the district after the addition of the
1258 parcel exceeds 5,000 acres. Upon adoption of the ordinance expanding the district, the
1259 petitioner shall cause to be recorded a notice of boundary amendment which reflects the
1260 new boundaries of the district.

1261 (F) This subsection is intended to facilitate the orderly addition of lands to a district
1262 under certain circumstances and does not preclude the addition of lands to any district
1263 using the procedures in the other provisions of this Code section.

1264 (b) A district shall remain in existence unless:

1265 (1) The district is merged with another district as provided in subsection (c) of this Code
1266 section;

1267 (2) All of the specific community development systems, facilities, and services that such
1268 district is authorized to perform have been transferred to a service delivery provider in
1269 the manner provided in subsections (d) and (e) of this Code section; or

1270 (3) The district is dissolved as provided in subsection (f) or (g) of this Code section.
1271 (c) A district may merge with other districts upon filing a petition for merger, which
1272 petition shall include the elements set forth in paragraph (2) of subsection (a) of Code
1273 Section 36-93-4 and which shall be evaluated using the criteria set forth in paragraph (5)
1274 of subsection (a) of Code Section 36-93-4. The filing fee shall be as set forth in
1275 paragraph (3) of subsection (a) of Code Section 36-93-4. In addition, the petition shall
1276 state whether a new district is to be established or whether one district will be the surviving
1277 district. A new district formed by a merger pursuant to this subsection shall assume all
1278 indebtedness of, and receive title to, all property owned by the preexisting districts, and the
1279 rights of creditors and liens upon property are not impaired by such merger. Any claim
1280 existing or action or proceeding pending by or against any district that is a party to the
1281 merger may be continued as if the merger had not occurred, or the surviving district may
1282 be substituted in the proceeding for the district that ceased to exist. Prior to filing a
1283 petition, the districts desiring to merge shall enter into a merger agreement and shall
1284 provide for the proper allocation of the indebtedness so assumed and the manner in which
1285 such debt shall be retired. The approval of the merger agreement and the petition by the
1286 board of supervisors of a district shall constitute consent of the landowners within the
1287 district.
1288 (d) Upon the request of the board of a district, a service delivery provider may adopt a
1289 resolution or ordinance providing for and entering into a contract for the transfer of a
1290 specific district service or infrastructure from a district to the service delivery provider.
1291 (e) Upon the transfer of all of the community development services of a district to a
1292 service delivery provider, the district shall be terminated in accordance with a plan of
1293 termination which shall be adopted by the board of supervisors and filed with the clerk of
1294 the superior court.

1295 (f) If, within five years after the effective date of the rule or ordinance establishing a
1296 district, a landowner has not received a building permit authorizing construction of a
1297 building or structure within the district, the district shall be automatically dissolved.

1298 (g) If a district has no outstanding financial obligations and no operating or maintenance
1299 responsibilities, upon the petition of the district, the district may be dissolved by a
1300 resolution or ordinance of the appropriate general purpose local government.

1301 (h) Prior to any dissolution, debts and other obligations of a district shall be fully paid or
1302 payment otherwise provided for.

1303 36-93-28.

1304 Subsequent to the establishment of a district under this chapter, each contract for the sale
1305 of a parcel of real property and each contract for the sale of a residential unit within the
1306 district shall include, immediately prior to the space reserved in the contract for the
1307 signature of the purchaser, the following disclosure statement in boldface and conspicuous
1308 type which is larger than the type in the remaining text of the contract: 'THE PROPERTY
1309 YOU ARE ABOUT TO PURCHASE IS WITHIN THE (Name of District) COMMUNITY
1310 DEVELOPMENT DISTRICT. THE (Name of District) COMMUNITY DEVELOPMENT
1311 DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS ON THIS
1312 PROPERTY FOR THE COSTS OF ALL IMPROVEMENTS, FACILITIES,
1313 INFRASTRUCTURE, AND DEVELOPMENTS. THESE ASSESSMENTS PAY THE
1314 CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN
1315 PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET
1316 ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES
1317 AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL
1318 GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
1319 ASSESSMENTS PROVIDED FOR BY LAW. THIS DISCLOSURE AND THE

1320 CONTRACT FOR SALE IN WHICH IT APPEARS SHALL BE ENFORCEABLE IN
1321 ANY COURT OF COMPETENT JURISDICTION.'

1322 36-93-29.

1323 Within 30 days after the effective date of a rule or ordinance establishing a community
1324 development district under this chapter, the district shall cause to be recorded in the
1325 property records in the county in which it is located a 'Notice of Establishment of the
1326 (Name of District) Community Development District.' The notice shall, at a minimum,
1327 include the legal description of the district and a copy of the disclosure statement specified
1328 in Code Section 36-93-8.

1329 36-93-30.

1330 (a) A service delivery provider that is the designated provider of a service for the area in
1331 which a district is to be located pursuant to a service delivery strategy under Article 2 of
1332 Chapter 70 of this title shall receive a copy of the petition to create a district that is filed
1333 with the applicable general purpose local government within five days of submission by
1334 the petitioner to the applicable general purpose local government. The petitioner shall
1335 address and provide such copy to the mayor, sole commissioner, county commission chair,
1336 or director of the service delivery provider, as applicable, by statutory overnight delivery.
1337 The service delivery provider shall have the right of first refusal to provide the service to
1338 the district. Such right of first refusal shall be exercised within 30 days of receipt of the
1339 petition unless such time is extended by agreement between the appropriate local
1340 government, the service delivery provider, and the petitioner, and such decision shall be
1341 communicated to the applicable general purpose local government no fewer than ten days
1342 before its public hearing on the petition. If the service delivery provider exercises its right
1343 to serve the district, it shall enter into a contract with the district, such contract to include
1344 the requirement that the service delivery provider provide its service within the district in

1345 conformity with a mutually agreed upon timetable of service. A service delivery provider's
1346 requirement that the infrastructure meet the existing standards used within the service area
1347 shall not constitute a refusal to provide service to the district. Likewise, a service delivery
1348 provider's requirement that the district construct, or pay the costs of construction of, any
1349 infrastructure inside or outside of the district necessary to provide service to the district
1350 shall not constitute a refusal to provide such service. Such construction or costs of
1351 construction may include any infrastructure required to connect district infrastructure to the
1352 service delivery provider's existing infrastructure and the costs of any modification,
1353 improvement, or construction of infrastructure necessary to provide service to the district.
1354 The district shall only be required to construct or pay for construction of infrastructure
1355 project costs that are proportionately associated with the infrastructure necessary to serve
1356 the anticipated usage within the district. Finally, a service delivery provider's delay in
1357 providing service due to a lack of permit capacity or due to documented intended use of
1358 existing permit capacity shall not constitute a refusal to provide service to the district.
1359 (b) Water or sewer fees charged to customers located outside the geographic boundaries
1360 of a service delivery provider and within the boundaries of a district shall not be arbitrarily
1361 higher than the fees charged to customers receiving such service which are located within
1362 the geographic boundaries of the service delivery provider.
1363 (c) If a board disputes the water and sewer rate differentials imposed within the district by
1364 the designated service provider, the board may hold a public hearing for the purpose of
1365 reviewing the rate differential. Following the preparation of a rate study by a qualified
1366 independent engineer, the district board may challenge the rate differentials on behalf of
1367 its residents in a court of competent jurisdiction. Prior to such challenge, the dispute shall
1368 be submitted to some form of alternative dispute resolution."

1369

SECTION 2.

1370 This Act shall become effective on January 1, 2025, only if an amendment to the
1371 Constitution to provide for the creation of and comprehensive regulation of community
1372 development districts is ratified by the voters at the November, 2024, state-wide general
1373 election. If such an amendment is not so ratified, then this Act shall not become effective
1374 and shall stand repealed on January 1, 2025.

1375

SECTION 3.

1376 All laws and parts of laws in conflict with this Act are repealed.