

**LOCAL AND SPECIAL ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA
1998 Volume Two**

1998 Vol. 2 -- Page: 4065

Sequential Number: 132

Short Title: FULTON COUNTY -- COMMUNITY IMPROVEMENT DISTRICTS IN MUNICIPALITIES; CREATION; DISTRICT BOARD MEMBERS; BOUNDARIES; TAX CREDIT; POWERS; DISSOLUTION.

Law Number: No. 749

Origin: (House Bill No. 1710).

Type: AN ACT

To amend an Act creating one or more community improvement districts in unincorporated Fulton County, approved April 3, 1987 (Ga. L. 1987, p. 5460), so as to provide for the creation of community improvement districts in the municipalities within Fulton County; to change certain definitions; to change certain provisions relating to the election of district board members; to change provisions relating to the boundaries of said districts; to provide for a property tax credit; to change provisions relating to the powers of each district and its board; to change provisions relating to the dissolution of a district; to provide for applicability; to provide for other matters relative to the foregoing; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act creating one or more community improvement districts in unincorporated Fulton County, approved April 3, 1987 (Ga. L. 1987, p. 5460), is amended by striking Section 2 and inserting in lieu thereof a new Section 2 to read as follows:

"SECTION 2.

Purpose.

The purpose of this Act shall be to provide for the creation of one or more community improvement districts within Fulton County and within each municipality therein, and such districts shall be created for the provision of such of the following governmental services and facilities as may be provided for in the resolution activating each district created by this Act or any supplemental resolution amending same:

(1) Street and road construction and maintenance, including curbs, sidewalks, street lights, and devices to control the flow of traffic on streets and roads;

- (2) Parks and recreational areas and facilities;
- (3) Storm-water and sewage collection and disposal systems;
- (4) Development, storage, treatment, purification, and distribution of water;
- (5) Public transportation including, but not limited to, services intended to reduce the volume of traffic or to transport two or more persons in common vehicles or conveyances;
- (6) Terminal and dock facilities and parking facilities; and
- (7) Such other services and facilities as may be provided for by general law."

SECTION 2.

Said Act is further amended by striking paragraphs (7), (8), and (13) of Section 3 and inserting in lieu thereof new paragraphs (7), (8), and (13) to read as follows:

"(7) `Elector' means the owner of real property within the district which is then subject to taxes, fees, and assessments levied by the board, as appear on the most recent ad valorem real property tax return records of Fulton County, or one officer or director of a corporate elector, one trustee of a trust which is an elector, one partner of a partnership elector, or one designated representative of an elector whose designation is made in writing to the Fulton County tax commissioner, on a form satisfactory to that commissioner, at least eight days prior to an election. An owner of property subject to taxes, fees, or assessments levied by the board shall have one vote for an election based on numerical majority and one vote for each \$1,000.00 or fraction thereof in assessed value of the owner's property for an election based on value majority. An owner of multiple parcels has one vote, not one vote per parcel, for an election based on numerical majority and one vote for each \$1,000.00 or fraction thereof in assessed value of the aggregate of the owner's properties subject to taxes, fees, or assessments levied by the board for an election based on value majority. Multiple owners of one parcel have one vote for elections based on numerical majority and one vote for \$1,000.00 or fraction thereof in assessed value of the owners' property for elections based on value majority, which must be cast by one of their number who is designated in writing by such multiple owners as their elector.

(8) `Equitably apportioned among the properties subject to such taxes, fees, and assessments according to the need for governmental services and facilities created by the degree of density of development of each such property,' with reference to taxes, fees, and assessments levied by the board, means that the burden of the taxes, fees, and assessments shall be apportioned among the properties subject

thereto based upon the values established in the most recent ad valorem tax reassessment of such properties certified by the chairperson of the Fulton County Board of Tax Assessors or may be apportioned among the properties subject thereto in direct or approximate proportion to the receipt of

services or benefit derived from the improvements or other activities for which the taxes, fees, or assessments are to be expended or may be apportioned in any other manner or combination of manners deemed equitable by the board, including but not limited to the recognition of differential benefit which may reasonably be expected to accrue to new land development in contrast to lands and improvement already in existence at the time of creation of the community improvement district."

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

SECTION 3.

Said Act is further amended by striking Section 4 and inserting in lieu thereof a new Section 4 to read as follows:

"SECTION 4.

Creation.

Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, as amended in 1984, said amendment being set out at Ga. L. 1984, p. 1703 et seq., there is created one or more community improvement districts to be located in Fulton County, Georgia, either wholly within the unincorporated area thereof, or wholly within any municipality therein, or partly within one or more municipalities and partly within the unincorporated area thereof, each of which shall be activated upon compliance with the conditions provided in this Act and which shall be governed by a board as constituted pursuant to this Act. The conditions for such activation shall be:

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

(A) The Fulton County Board of Commissioners if the district is located wholly within the unincorporated area of Fulton County, which resolution shall impose such conditions on the projects and activities which may be undertaken as will ensure their compatibility with adopted county policies and planning for the area;

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

Page: 4068

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

(2) Written consent to the creation of the community improvement district by:

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

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

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

No district or board created under this Act shall transact any business or exercise any powers under this Act until the conditions of this paragraph are met. A copy of such resolutions shall be filed with the Secretary of State who shall maintain a record of all districts activated under this Act and a second copy shall be filed with the Department of Community Affairs."

SECTION 4.

Said Act is further amended by striking Section 5 and inserting in lieu thereof a new Section 5 to read as follows:

"SECTION 5.

Administration, appointment, and election of board members.

(a) Each district created pursuant to this Act shall be administered by a board composed of a minimum of seven members to be appointed and elected as provided in this section. Two board members shall be appointed by the Fulton County Board of Commissioners, one board member shall be appointed by the governing authority of each municipality within which any portion of the district lies, and the remaining board members shall be elected by the owners of real property within the district subject to taxes, fees, and assessments levied by the board. The board shall be seven in number plus one member appointed by the governing authority of each municipality as provided above. The appointed board members shall serve at the pleasure of the governing body which appointed same, respectively. The initial elected board

members shall serve for terms of office as follows: two shall serve for two years, and the remaining board members shall serve for four years. Thereafter, all terms of office shall be for four years, except the appointed members who serve at the pleasure of the governing body which appointed them.

(b) The initial board members to be elected as provided in this Act shall be elected in a caucus of electors, which shall be held within 60 days after the adoption of the resolutions and obtaining the written consents provided for in this Act at such time and place within the district as the Fulton County Board of Commissioners shall designate after notice thereof shall have been given to said electors by (1) publishing same in the legal organ of Fulton County as provided in this Act and (2) contacting each elector by U.S. mail at the address indicated in the property tax rolls. Thereafter, there shall be conducted biennially, not later than 60 days following the last day for filing ad valorem property tax returns in Fulton County, a caucus of said electors at such time and place within the district as the board shall designate in such notice for the purpose of electing board members to those positions which have terms expiring or are vacant. If a vacancy occurs in an elected position on the board, the board shall, within 60 days thereafter, call a special election to fill the same to be held within 60 days of the call unless such vacancy occurs within 180 days of the next regularly scheduled election, in which case a special election may, but need not, be called. For any election held under the provisions of this Act, notice of said election shall be given the electors by (1) publishing notice thereof in the legal organ of Fulton County on four dates at least 45 days, 31 days, 17 days, and ten days, respectively, prior to such election and (2) contacting each elector at least 31 days prior to such election by U.S. mail at the address indicated in the property tax rolls.

(c) One board member shall be elected by majority vote of the electors present and voting at the caucus on the basis of one vote for each elector. Said board member shall be elected to a term of office of two years at the initial caucus of electors when the board is first formed and to terms of office of four years thereafter. Four board members shall be elected by majority of the votes cast by the electors present and voting at the caucus, with each elector having one vote for each \$1,000.00 or fraction thereof in assessed value of the property owned by the elector subject to taxes, fees, or assessments levied by the board. All vacancies to be filled through election shall be filled by majority vote in the same manner as the board member previously holding the seat.

(d) The elected board members shall be subject to recall as any other elected public official by the electors defined in this Act.

(e) Board members, including appointed board members, shall be electors within the district. If a board member ceases to be an elector,

Page: 4070

such board member's position shall be declared vacant as of the date of the event terminating such status.

(f) The board members shall receive no compensation for their services but shall be reimbursed for actual expenses incurred in the performance of their duties. They shall elect one of their members as chairperson and another as vice chairperson and shall also elect a secretary and a treasurer or a secretary-treasurer, either of whom may but need not be a member of the board."

SECTION 5.

Said Act is further amended by striking subsection (d) of Section 6 and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) In accordance with the requirements of Code Section 36-71-7 of the O.C.G.A., each property paying taxes, fees, or assessments levied by the board for any public facility, as set forth in Section 2 of this Act, shall receive a credit equal to the present value of all such taxes, fees, and assessments toward any impact fee as may be levied by Fulton County against said property for system improvements, as defined under Chapter 71 of Title 36 of the O.C.G.A., known as the 'Georgia Development Impact Fee Act,' which are in the same category as said public facility."

SECTION 6.

Said Act is further amended by striking Section 7 and inserting in lieu thereof the following:

"SECTION 7.

Boundaries of the districts.

(a) The boundaries of each district shall be as designated as such by the Fulton County Board of Commissioners if wholly within the unincorporated area of Fulton County and such municipalities within which the district may be partially located if partially within the unincorporated area of Fulton County and partially within one or more municipalities, or by the governing authority of a municipality if wholly within the incorporated area thereof, as set forth in the resolutions required in Section 4 of this Act, or as may thereafter be added as provided in this Act.

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

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

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

property which will be subject to taxes, fees, and assessments levied by the board and for this purpose value shall be determined by the most recent approved county ad valorem tax digest;

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

(4) The adoption of a resolution consenting to the annexation by the governing authorities of Fulton County, if any portion of the district is or is to be in the unincorporated area of Fulton County, and such municipalities as may have area within the district before or after the annexation."

SECTION 7.

Said Act is further amended by striking Section 9 and inserting in lieu thereof the following:

"SECTION 9.

Cooperation with local governments.

The services and facilities provided pursuant to this Act shall be provided for in a cooperation agreement executed jointly by the board and the governing bodies of Fulton County and any municipalities within which the district is partially located. The provisions of this section shall in no way limit the authority of Fulton County or any such municipality to provide services or facilities within the district; and Fulton County or such municipalities shall retain full and complete authority and control over any of their facilities located within their respective areas of any district. Said control shall include but not be limited to the modification of, access to, and degree and type of services provided through or by facilities of the municipality or county. Nothing contained in this section shall be construed to limit or preempt the application of any governmental laws, ordinances, resolutions, or regulations to the district or the services or facilities provided therein."

SECTION 8.

Said Act is further amended by striking paragraphs (3) and (15) of subsection (a) of Section 10 and inserting in lieu thereof new paragraphs (3) and (15) to read as follows:

"(3) To make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the board or to further the public purposes for which the district is created, including, but not limited to, contracts for construction of projects, leases of projects, contracts for sale of projects, agreements for loans to finance projects, contracts with respect to the use of projects, and agreements with other jurisdictions or community improvement districts

regarding multijurisdictional projects or services or for other cooperative endeavors to further the public purposes of the district;"

"(15) To encourage and promote the improvement and development of the district and to make, contract for, or otherwise cause to be made long-range plans or proposals for the district in cooperation with Fulton County and any municipal corporations in which the district is wholly or partially located;"

SECTION 9.

Said Act is further amended by striking Section 14 and inserting in lieu thereof a new Section 14 to read as follows:

"SECTION 14.

Dissolution.

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

(1) The adoption of a resolution approving of the dissolution of each community improvement district by the Fulton County Board of Commissioners if wholly within the unincorporated area of Fulton County and such municipalities within which the district may be located if partially within the unincorporated area of Fulton County and partially within one or more municipalities, or by the governing authority of a municipality if wholly within the incorporated area thereof; and

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

(A) Two-thirds (67 percent) of the owners of real property within the district which are subject to taxes, fees, and assessments levied by the board of the district; and

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

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

(b) At the official caucus of electors at which board members are to be elected in the sixth year following creation of the district, and every sixth year thereafter, the question shall be put to the electors present to dissolve the community improvement district. Upon an affirmative vote

of a majority of the electors present and voting, who shall represent at least 75 percent of the votes cast on the basis of value, the board shall send a ballot to each owner of property subject to taxes, fees, and assessments levied by the board for a vote on the dissolution. Upon receipt of ballots consenting to the dissolution from a majority of the property owners, who shall represent at least 75 percent of the assessed value of said properties, the board shall request dissolution by the governing authority and shall forward said ballots to the Fulton County tax commissioner for certification.

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

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

(e) When a dissolution becomes effective, the county governing authority, or the governing authority of a municipality if wholly within the incorporated area thereof, shall take title to all property previously in the ownership of the district and all taxes, fees, and assessments of the district shall cease to be levied and collected.

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

SECTION 10.

Said Act is further amended by inserting immediately following Section 14 a new Section 14.1 to read as follows:

"SECTION 14.1.

Applicability.

The provisions of this Act shall not apply to any municipality in Fulton County in which a community improvement district has been created as of July 1, 1998, by local Act of the General Assembly."

SECTION 11.

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

NOTICE OF INTENTION TO INTRODUCE LOCAL LEGISLATION

Notice is given that there will be introduced at the regular 1998 session of the General Assembly of Georgia a bill to an Act creating one or more community improvements districts in unincorporated Fulton County, approved April 3, 1987 (Ga. L. 1987, p. 5460), so as to provide for the creation of community improvement districts in the municipalities within Fulton County; and for other purposes.

This 9th day of February, 1998.

Representative Sharon Trense 44th District
GEORGIA, FULTON COUNTY

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, Sharon Trense, who on oath deposes and says that she is the Representative from the 44th District and further deposes and says as follows:

(1) That the attached Notice of Intention to Introduce Local Legislation was published in the Fulton County Daily Report which is the official organ of Fulton County on the following date: February 12, 1998.

(2) That the laws requiring notice of local legislation were further complied with in the manner checked below:

-- A copy of the notice of intention was mailed, transmitted by facsimile, or otherwise provided to the governing authority of any county, municipality, or consolidated government whose charter or enabling Act is amended, as required by subsection (b) of Code Section 28-1-14.

-- The notice requirement of subsection (b) of Code Section 28-1-14 does not apply because the bill was requested by resolution or other written notification of the governing authority of the affected county, municipality, or consolidated government and a copy of such resolution or other written notification is attached hereto.

[UNK] The notice requirement of subsection (b) of Code Section 28-1-14 does not apply because the bill does not amend the charter of a municipality or the enabling Act of a county or consolidated government or the bill affects a local school system.

-- The notice requirement of subsection (b) of Code Section 28-1-14 does not apply because the bill is an annexation bill and a copy of the bill was provided to the county governing authority within which the area proposed to be annexed is located at the time the notice was published,

Page: 4075

as required by Code Section 28-1-14.1.

s/ SHARON TRENSE Representative, 44th District
Sworn to and subscribed before me,

this 17th day of February, 1998.

s/ SUSAN GORDON

Notary Public, Rockdale County, Georgia
My Commission Expires Nov. 18, 2001
(SEAL)

Approval Date: Approved April 2, 1998.