

Senate Bill 225

By: Senators Henson of the 41st and Ramsey, Sr. of the 43rd

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To amend an Act creating one or more community improvement districts within DeKalb
2 County, approved May 13, 2008 (Ga. L. 2008, p. 3817), as amended, so as to change certain
3 provisions relating to creation of such districts; to change certain provisions relating to
4 administration; to change certain provisions relating to taxes, fees, and assessments; to
5 change certain provisions relating to boundaries of such districts; to change certain
6 provisions relating to providing services and facilities; to change certain provisions relating
7 to dissolution; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 An Act creating one or more community improvement districts within DeKalb County,
11 approved May 13, 2008 (Ga. L. 2008, p. 3817), as amended, is amended by revising Section
12 2 to read as follows:

13 **"SECTION 2.**

14 The purpose of this Act shall be to provide for the creation of one or more community
15 improvement districts within unincorporated DeKalb County and each municipality therein,
16 and such district shall be created for the provision of such of the following governmental
17 services and facilities as may be provided for in the resolution activating each district created
18 hereby, or as may be adopted by resolutions of the majority of the electors and the majority
19 of the equity electors as defined in this Act:

- 20 (1) Street and road construction and maintenance, including curbs, sidewalks, street
21 lights, and devices to control the flow of traffic on streets and roads;
22 (2) Parks and recreational areas and facilities;
23 (3) Storm water and sewage collection and disposal systems;
24 (4) Development, storage, treatment, purification, and distribution of water;

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- 25 (5) Public transportation;
- 26 (6) Terminal and dock facilities and parking facilities; and
- 27 (7) Such other services and facilities as may be provided for by general law."

28 **SECTION 2.**

29 Said Act is further amended by revising Section 4 to read as follows:

30 "SECTION 4.

31 Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there is
 32 created one or more community improvement districts to be located in DeKalb County,
 33 Georgia, either wholly within the unincorporated area thereof or wholly within any
 34 municipality or municipalities therein, or partially within one or more municipalities and
 35 partially within the unincorporated area thereof, each of which shall be activated upon
 36 compliance with the conditions set forth in this section. Each district shall be governed by
 37 a board constituted by this Act. The conditions for such activation shall be:

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

40 (A) The governing authority of DeKalb County if the district is located wholly within
 41 the unincorporated area of DeKalb County;

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

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

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

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

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

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

57 No district or board created under this Act shall transact any business or exercise any powers
 58 under this Act until the foregoing conditions are met. A copy of such resolutions shall be

59 filed with the Secretary of State, who shall maintain a record of all districts activated under
60 this Act, and with the Georgia Department of Community Affairs. No district created wholly
61 within unincorporated DeKalb County shall be required to remain activated by the
62 subsequent resolution of a municipality which is approved for incorporation by public
63 referendum prior to January 1, 2016, and which is created within, or which annexes into, an
64 existing community improvement district."

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SECTION 3.

66 Said Act is further amended by revising subsection (a) of Section 5 to read as follows:

67 "(a) Each district created pursuant to this Act shall be administered by a board composed
68 of at least seven board members to be appointed and elected as provided in this section.
69 Two board members shall be appointed by the governing authority of DeKalb County
70 should the district boundaries lie entirely within unincorporated DeKalb County. Should
71 any of the district lie within the incorporated area of DeKalb County, only one board
72 member shall be appointed by the governing authority of DeKalb County. One board
73 member shall be appointed by the governing authority of each municipality within which
74 any portion of the district lies. Two board members shall be elected by the vote of electors,
75 and three members shall be elected by the vote of equity electors. The members
76 representing electors and equity electors shall be elected to serve in post positions 1
77 through 5, respectively. Each elected board member must receive a majority of the votes
78 cast for the post for which he or she is a candidate. Votes for Posts 1 and 2 shall be cast
79 by electors and votes for Posts 3, 4, and 5 shall be cast by equity electors. The initial terms
80 of office of the members representing Posts 1 and 4 shall be one year. The initial terms of
81 office of the members representing Posts 2 and 5 shall be two years, and the initial term of
82 office of the member representing Post 3 shall be three years. Thereafter, all terms of
83 office shall be for three years. The appointed board members shall serve at the pleasure
84 of the appointing authority."

85

SECTION 4.

86 Said Act is further amended by revising subsection (a) of Section 6 to read as follows:

87 "(a) The board may levy taxes, fees, and assessments within the district only on real
88 property used nonresidentially, specifically excluding all property exempt from ad valorem
89 taxation under the Constitution or laws of the State of Georgia; all property used for
90 residential, agricultural, or forestry purposes; and all tangible personal property and
91 intangible property. Any tax, fee, or assessment so levied shall not exceed five mills of the
92 aggregate assessed value of all such real property. The taxes, fees, and assessments levied
93 by the board shall be equitably apportioned among the properties subject to such taxes,

94 fees, and assessments according to the need for governmental services and facilities created
95 by the degree of density of development of each such property. The proceeds of taxes,
96 fees, and assessments levied by the board shall be used only for the purpose of providing
97 governmental services and facilities which are specially required by the degree of density
98 of development within the district and not for the purpose of providing those governmental
99 services and facilities provided to the county or municipality as a whole. Any tax, fee, or
100 assessment so levied shall be collected by DeKalb County in the same manner as taxes,
101 fees, and assessments are levied by DeKalb County. Delinquent taxes shall bear the same
102 interest and penalties as DeKalb County or municipal ad valorem taxes and may be
103 enforced and collected in the same manner. The proceeds of taxes, fees, and assessments
104 so levied, less a fee to cover the costs of collection of 1 percent of such proceeds, but not
105 more than \$25,000.00 in any one calendar year, shall be transmitted by DeKalb County to
106 the board and shall be expended by the board only for the purposes authorized by this Act."

107 **SECTION 5.**

108 Said Act is further amended by revising Section 7 to read as follows:

109 **"SECTION 7.**

110 (a) The boundaries of each district or districts shall be as designated as such by the
111 governing authority of DeKalb County and such municipalities within which the district may
112 be partially located if partially within the unincorporated area of DeKalb County and
113 partially within one or more municipalities, or by the governing authority of a municipality
114 if wholly within the incorporated area thereof, as set forth in the resolution required in
115 Section 4 of this Act, or as may thereafter be added as provided in this Act.

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

118 (1) Written consent of a majority of the owners of real property within the areas sought
119 to be annexed and which will be subject to taxes, fees, and assessments levied by the
120 board of the district;

121 (2) Written consent of the owners of real property within the areas sought to be annexed
122 which constitutes at least 75 percent by value of the property which will be subject to
123 taxes, fees, and assessments levied by the board of the district. For this purpose, value
124 shall be determined by the most recent approved county ad valorem tax digest;

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

127 (4) The adoption of a resolution consenting to the annexation by the governing authority
128 of DeKalb County if any portion of the district is or is to be in the unincorporated area
129 of DeKalb County, and/or the governing authority of such municipalities as may have
130 area within the district immediately before or immediately after the annexation."

131 **SECTION 6.**

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

133 "SECTION 9.

134 The services and facilities provided pursuant hereto will be provided for in a cooperation
135 agreement executed jointly by the board and by the governing authority of DeKalb County
136 if any of the district is in the unincorporated area of the county, and by any municipalities
137 within which the district is partially located. The provisions of this section shall in no way
138 limit the authority of DeKalb County or any such municipality to provide services or
139 facilities within the district; and DeKalb County and such municipalities shall retain full and
140 complete authority and control over any of its facilities located within its respective areas of
141 any district. Said control shall include, but not be limited to, the modification of, access to,
142 and degree and type of services provided through or by facilities of the county or such
143 municipalities. Nothing contained in this section shall be construed to limit or preempt the
144 application of any governmental laws, ordinances, resolutions, or regulations to the district
145 or the services or facilities provided therein."

146 **SECTION 7.**

147 Said Act is further amended by revising Section 14 to read as follows:

148 "SECTION 14.

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

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

- 158 (2) The written consent to the dissolution of the community improvement district by:
159 (A) Two-thirds of the owners of real property within the district which are subject to
160 taxes, fees, and assessments levied by the board of the district; and
161 (B) The owners of real property constituting at least 75 percent by value of all real
162 property within the district which are subject to taxes, fees, and assessments levied by
163 the board. For this purpose, value shall be determined by the most recent approved
164 county ad valorem tax digest.
- 165 The written consent provided for in this paragraph shall be submitted to the DeKalb
166 County tax commissioner, who shall certify whether subparagraphs (A) and (B) of this
167 paragraph have been satisfied with respect to each proposed district dissolution.
- 168 (b) In the event that successful action is taken pursuant to this section to dissolve the district,
169 the dissolution shall become effective at such time as all debt obligations of the district have
170 been satisfied. Following a successful dissolution action and until the dissolution becomes
171 effective, no new projects may be undertaken, obligations or debts incurred, or property
172 acquired.
- 173 (c) Upon a successful dissolution action, all noncash assets of the district other than public
174 facilities or land or easements to be used for such public facilities, as described in Section
175 2 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be applied
176 to the repayment of any debt obligation of the district. Any cash remaining after all
177 outstanding obligations are satisfied shall be refunded to each property owner in direct
178 proportion to the total amount in taxes, fees, or assessments paid by the property owner
179 relative to the total revenues paid by all properties in the district in the most recent tax year.
- 180 (d) When dissolution becomes effective, the county governing authority for public facilities
181 located within the unincorporated area, or the municipality within which they are located,
182 shall take title to all property, public facilities, and land or easements to be used for such
183 public facilities previously in the ownership of the district, and all taxes, fees, and
184 assessments of the district shall cease to be levied and collected.
- 185 (e) A district may be reactivated in the same manner as an original activation."

186

SECTION 8.

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